

MONTANA LEGISLATIVE HISTORY

Chapter 272 19 2005

Bill H 140 S _____ Original bill & history X C

H. Committee on BUSINESS & LABOR

Hearing Date(s) 1/25 X C

EXEC ACTION 2/8 X C

_____ C

_____ C

Date Out _____ C

S. Committee on BUSINESS & LABOR

Hearing Date(s) 4/1 AM X C

EXEC ACTION 4/1 PM X C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

H. Committee on Appropriations

HEARING 2/17 X C

EXEC. ACTION 3/23 X C

Bill Draft Number: LC0017**Bill Type - Number:** HB 140**Short Title:** Revise laws on consumer credit counseling**Primary Sponsor:** John Parker**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 60

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/19/2005			
(H) Signed by Governor	04/19/2005			
(H) Transmitted to Governor	04/18/2005			
(S) Signed by President	04/18/2005			
(H) Signed by Speaker	04/14/2005			
(H) Returned from Enrolling	04/14/2005			
(C) Sent to Printing	04/14/2005			
(H) Sent to Enrolling	04/12/2005			
(H) 3rd Reading Passed as Amended by Senate	04/12/2005	87	10	
(H) Scheduled for 3rd Reading	04/12/2005			
(H) 2nd Reading Senate Amendments Concurred	04/11/2005	89	11	
(H) Scheduled for 2nd Reading	04/11/2005			
(S) Returned to House with Amendments	04/06/2005			
(S) 3rd Reading Concurred	04/06/2005	43	7	
(S) Scheduled for 3rd Reading	04/06/2005			
(S) 2nd Reading Concurred	04/05/2005	43	7	
(S) Scheduled for 2nd Reading	04/05/2005			
(C) Sent to Printing	04/04/2005			
(S) Committee Report--Bill Concurred as Amended	04/02/2005			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Concurred as Amended	04/02/2005	10	1	(S) Business, Labor, and Economic Affairs
(S) Hearing	04/01/2005			(S) Business, Labor, and Economic Affairs
(S) Referred to Committee	03/29/2005			(S) Business, Labor, and Economic Affairs
(S) First Reading	03/29/2005			
(H) Transmitted to Senate	03/29/2005			
(H) 3rd Reading Passed	03/29/2005	85	14	
(H) Scheduled for 3rd Reading	03/29/2005			

(H) 2nd Reading Passed	03/24/2005	87	12	
(H) Scheduled for 2nd Reading	03/24/2005			
(C) Sent to Printing	03/23/2005			
(H) Committee Report--Bill Passed as Amended	03/23/2005			(H) Appropriations
(H) Committee Executive Action--Bill Passed as Amended	03/23/2005	18	2	(H) Appropriations
(H) Hearing	02/17/2005			(H) Appropriations
(H) Rereferred to Committee	02/12/2005			(H) Appropriations
(C) Sent to Printing	02/12/2005			
(H) 2nd Reading Passed as Amended	02/12/2005	86	14	
(H) 2nd Reading Motion to Amend Carried	02/12/2005	99	0	
(H) Scheduled for 2nd Reading	02/12/2005			
(C) Sent to Printing	02/09/2005			
(H) Committee Report--Bill Passed as Amended	02/09/2005			(H) Business and Labor
(H) Committee Executive Action--Bill Passed as Amended	02/08/2005	18	0	(H) Business and Labor
(H) Hearing	01/25/2005			(H) Business and Labor
(H) Fiscal Note Printed	01/12/2005			
(H) Fiscal Note Received	01/12/2005			
(H) Referred to Committee	01/05/2005			(H) Business and Labor
(H) Fiscal Note Requested	12/23/2004			
(C) Introduced Bill Text Available Electronically	12/20/2004			
(H) Introduced	12/20/2004			
(C) Pre-Introduction Letter Sent	12/16/2004			
(C) Pre-Introduction Letter Sent	10/06/2004			
(C) Draft in Assembly/Executive Director Review	10/05/2004			
(C) Draft in Final Drafter Review	10/04/2004			
(C) Draft in Input/Proofing	09/29/2004			
(C) Bill Draft Text Available Electronically	09/29/2004			
(C) Draft to Drafter - Edit Review [CAJ]	09/02/2004			
(C) Draft in Edit	09/02/2004			
(C) Draft in Legal Review	09/01/2004			
(C) Draft to Requester for Review	08/19/2004			
(C) Draft to Requester for Review	07/30/2004			
(C) Fiscal Note Needed	03/18/2004			
(C) Draft Request Received	03/18/2004			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Middle Initial
Requester	Bohlinger	John	C
Drafter	Campbell	Bart	
Primary Sponsor	Parker	John	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Consumer Protection		Simple	CONS
Credit Transactions (see also: Financial Institutions)		Simple	CRED

Additional Bill Information

Probable Fiscal Note: Yes

Preintroduction Required: N

Session Law Ch. Number: 272

DEADLINE

Category: Appropriation Bills

Transmittal Date: 03/30/2005

Return (with 2nd house amendments) Date: 04/14/2005

Section Effective Dates

Section(s)	Effective Date	Date Qualified
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All Sections	19-APR-05	
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HOUSE BILL NO. 140
INTRODUCED BY J. PARKER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MONTANA CONSUMER DEBT MANAGEMENT SERVICES ACT; REQUIRING LICENSURE OF CREDIT COUNSELING SERVICES; ESTABLISHING REQUIREMENTS FOR DEBT MANAGEMENT PLANS ENTERED INTO BETWEEN CONSUMERS AND CREDIT COUNSELING SERVICES; DESIGNATING PROHIBITED PRACTICES FOR CREDIT COUNSELING SERVICES; AND PROVIDING REMEDIES AND PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana Consumer Debt Management Services Act".

NEW SECTION. **Section 2. Scope.** (1) The provisions of [sections 1 through 7] apply to any person that provides or offers to provide debt management plans to residents of this state.

(2) The provisions of [sections 1 through 7] do not apply to:

(a) banking institutions, as defined in 32-1-601, building and loan associations, credit unions, escrow businesses, as defined in 32-7-102, or title companies;

(b) the services of an attorney licensed to practice law in this state if providing credit counseling services is incidental to and not the principal business of the attorney; and

(c) the services of a certified public accountant licensed to practice accounting in this state if providing credit counseling services is incidental to and not the principal business of the certified public accountant.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Consumer" means an individual who, singly or jointly with another individual, owes money to one or more creditors for personal, family, or household purposes.

(2) "Credit counseling service" means a person that provides or offers to provide debt management plan services to consumers for consideration.

(3) "Credit counselor" means a person who is an employee or agent of a credit counseling service and

who designs debt management plans and provides consumers with budget, basic financial planning, and consumer education services.

(4) "Debt management plan" means a written agreement under which a credit counseling service is to receive money from a consumer for the purpose of distributing that money to one or more creditors of the consumer as full or partial payment of the consumer's obligation to the creditor or creditors.

(5) "Department" means the department of administration provided for in 2-15-1001.

(6) "Person" means an individual, sole proprietorship, firm, partnership, corporation, limited liability partnership or company, or other entity and includes a nonprofit organization exempt from taxation under 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3).

(7) "Trust account" means an account:

- (a) established by a credit counseling service in a federally insured financial institution;
- (b) designated as a trust account or other appropriate designation indicating that the funds in the account are not funds of the credit counseling service or its directors, officers, employees, or agents;
- (c) used exclusively for funds paid by consumers to the credit counseling service for disbursement to creditors of the consumers; and
- (d) that is unavailable to creditors of the credit counseling service.

NEW SECTION. Section 4. Requirements for licensure -- fees -- rulemaking authority -- refusal to grant license -- suspension or revocation of license -- rules. (1) A credit counseling service may not provide or offer to provide debt management plans or other consumer credit counseling services to the consumers of this state without first being licensed by the department.

(2) In order to obtain a license or annually renew a license, an applicant shall pay the required license fee as established by the department by rule. The fee must be in an amount commensurate with the cost of administering [sections 1 through 7], and the applicant shall provide evidence:

- (a) that it maintains a trust account for handling consumer funds;
- (b) (i) that it has been accredited by a bona fide third-party accreditation provider that ensures compliance with industry standards and best practices; and
- (ii) that its credit counselors have been certified by a bona fide third-party certification provider as possessing the competence to provide consumer credit counseling services;
- (c) that a majority of its owners, principals, officers, board of directors, or employees are not persons who have a conflict of interest with the applicant's mission. Persons with a conflict of interest include creditors,

creditors' representatives, bankruptcy attorneys, and other persons having a direct stake in the outcome of the consumer credit counseling process.

(d) that it maintains an office in the state with a credit counselor on the premises;

(e) that it has obtained a surety bond for the benefit of consumers harmed by a violation of the provisions of [sections 1 through 7] in an amount, form, and duration as required by the department by rule; and

(f) that it has contracted at its own expense for annual audits by an independent certified public accountant to be conducted within 6 months of the close of each of its fiscal years.

(3) An applicant for a license or license renewal shall provide any additional information that the department requires. The department shall adopt rules to implement the provisions of this section. The department shall designate by rule acceptable third-party accreditation and certification providers for purposes of subsection (2)(b).

(4) The department may refuse to grant a license to or suspend or revoke the license of any credit counseling service that fails to comply with the provisions of subsections (1) through (3) or any rules adopted pursuant to this section.

NEW SECTION. **Section 5. Requirements for debt management plans.** (1) A credit counseling service may not require or accept any consideration from a consumer for the provision of services or the offer to provide services unless a written and dated debt management plan meeting the requirements of this section has been signed by the consumer. A copy of the debt management plan must be provided to the consumer.

(2) The debt management plan must include the following:

(a) the name and principal business address of the credit counseling service and the name and address of the consumer;

(b) a full and detailed description of the services to be performed by the credit counseling service for the consumer;

(c) a clear statement of the costs to the consumer, including contributions or fees, highlighted in bold type;

(d) a statement that the debt management plan may be terminated for any reason by the consumer and that the consumer is not obligated to continue the arrangement unless satisfied with the services provided;

(e) a complete list of the obligations of each party that are subject to the terms of the agreement; and

(f) an indication of how disputes are to be resolved.

(3) A credit counseling service shall provide each consumer who is a party to a debt management plan

with a report that shows the funds received from the consumer since the last report and the disbursement of those funds made to each creditor of the consumer. The credit counseling service shall provide the reports to consumers on at least a quarterly basis.

NEW SECTION. Section 6. Prohibited practices. (1) A credit counseling service may not:

- (a) purchase any debt or obligation of a consumer;
- (b) lend money or provide credit to a consumer;
- (c) obtain a mortgage or other security interest in any property of a consumer;
- (d) operate as a collection agency;
- (e) structure a debt management plan in a way that at the debt management plan's conclusion any debts of the consumer that are subject to the debt management plan are not fully amortized;
- (f) charge for or provide credit insurance; or
- (g) cause or attempt to cause a consumer to waive or forego any right or benefit that the consumer has under the provisions of [sections 1 through 7].

(2) (a) A credit counseling service may not advertise its services in any manner in this state without first being licensed by the department.

(b) A credit counseling service or any person on a credit counseling service's behalf may not misrepresent any material fact or make a false promise intended to induce a consumer into entering a debt management plan.

NEW SECTION. Section 7. Remedies. (1) The remedies provided in this section are cumulative and apply to licensees and unlicensed persons to whom [sections 1 through 7] apply.

(2) Any violation of [sections 1 through 7] constitutes an unfair or deceptive trade practice and is a violation of 30-14-103.

(3) A person found to have violated [sections 1 through 7] is liable to the person harmed for actual and consequential damages or \$500, whichever is greater, for each violation, plus costs and attorney fees.

(4) A person harmed by a violation of [sections 1 through 7] may sue for injunctive and other appropriate equitable relief.

(5) A person harmed by a violation of [sections 1 through 7] may bring a class action suit.

(6) The remedies provided in this section are not intended to be the exclusive remedies available to a consumer for a violation of [sections 1 through 7].

(7) The department, the attorney general, or a county attorney, on behalf of state residents who have suffered a loss or harm as a result of a violation of [sections 1 through 7], may seek any remedy provided by Title 30, chapter 14, part 1.

NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 7].

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on January 25, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Dan Villa (D)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 339, 1/20/2005; HB 300,
1/20/2005; HB 140, 1/20/2005; HB
328, 1/20/2005; HB 354, 1/20/2005
Executive Action: HB 354, HB 300, HB 339, HB 318, HB
270

HEARING ON HB 339

Opening Statement by Sponsor:

REP. TOM FACEY (D), HD 95, opened the hearing on HB 339,
Unemployment eligibility for person training job replacement.
00:04:00

Proponents' Testimony:

00:07:02 Jerry Driscoll, AFL-CIO

Opponents' Testimony: None

Informational Testimony:

00:08:51 Joanne Finstad, Department of Labor and Industry

Questions from Committee Members and Responses:

00:09:15

Closing by Sponsor:

00:13:49

HEARING ON HB 300

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, opened the hearing on HB 300,
Continuing education for insurance adjusters.
00:14:39

Proponents' Testimony:

00:15:59 John Bandy, Montana Adjusters Association

00:20:10 Roger McGlenn, Independent Insurance Agents

EXHIBIT(buh19a01)

00:20:50 Jed Fitch, Montana Trial Lawyer's Association

00:21:37 Kenneth Lind, Adjuster in Billings

00:22:30 Ted Scherf, Independent Insurance Adjuster

Opponents' Testimony: None

Informational Testimony:

00:24:33 Alicia Pichette, State Auditor's Office

Questions from Committee Members and Responses:

00:25:33

Closing by Sponsor:

00:25:43

HEARING ON HB 140

Opening Statement by Sponsor:

REP. JOHN PARKER (D), HD 23, opened the hearing on HB 140, Revise laws on consumer credit counseling.

00:26:28

Proponents' Testimony:

00:27:59 Debra Kottel, Consumer Credit Counseling of Montana

EXHIBIT(buh19a02)

EXHIBIT(buh19a03)

00:36:50 Tom Jacobson, Consumer Credit Counseling of Montana

EXHIBIT(buh19a04)

EXHIBIT(buh19a05)

00:45:28 Alex Ward, AARP Montana

EXHIBIT(buh19a06)

EXHIBIT(buh19a07)

00:51:31 Mike Hall, Take Charge America

EXHIBIT(buh19a08)

00:58:19 Melanie Graham, Self

01:00:20 Diana Zbinden, Helena Consumer Credit Counseling

EXHIBIT(buh19a09)

01:04:02 Cort Jensen, Consumer Protection

01:05:37 Jed Fitch, Montana Trial Lawyer's Association

Opponents' Testimony: None

Informational Testimony:

01:06:43 John Berglund, Association of Independent Consumer Credit Counseling Agencies

EXHIBIT(buh19a10)

Questions from Committee Members and Responses:

01:10:52

Closing by Sponsor:

01:28:24

HEARING ON HB 328

Opening Statement by Sponsor:

REP. PAT WAGMAN (R), HD 62, opened the hearing on HB 328, Revise laws concerning plumbing and plumbers.

01:46:08

Proponents' Testimony:

01:49:55 Carl Schweitzer, Associated Plumbing and Heating Contractor's of Montana

Opponents' Testimony:

01:52:55 John Forken, Montana Association of Plumbers and Pipefitters

Informational Testimony:

01:54:50 Jim Brown, Department of Labor and Industry

Questions from Committee Members and Responses:

01:55:37

Closing by Sponsor:

02:04:22

HEARING ON HB 354

Opening Statement by Sponsor:

REP. MARK NOENNIG (R), HD 46, opened the hearing on HB 354, Revise mobile home landlord tenant law.

02:08:02

Proponents' Testimony:

02:13:53 Chris Christiaens, Montana Landlords Association

Opponents' Testimony: None

Informational Testimony: None

HB 140

Montana Consumer Debt Management Act

Fast Facts

- Consumer debt climbed to \$2,001,830,670,000 by the end of 2003. This is a 5.21% increase from the previous year. This figure includes all consumer debt with the exception of mortgages.
- The amount of consumer debt per household averaged \$18,707 in the United States.
- Of the total US consumer debt, approximately \$735,000,000,000 is from the use of credit cards. In Montana, this equates to a staggering \$2,463,574,748.
- As only 40% of Americans pay their credit card debt in full each month, the 60% who make payments carry an average balance of \$12,000. With the current national average rate for interest on credit cards at 13%, this would equate to approximately \$335,712,312 sent outside of the state each year by Montanans in interest payments alone.
- Interest rates for high-risk accounts rose to 29.9% in 2001 further strapping those who can least afford to pay. Furthermore, based on minimum payments, it would take as long as 42 years to pay off!
- The Federal Reserve Board estimates that the average household debt service ratio (an estimate of the ratio of all debt payments to disposable income) was 13.14% in the 3rd quarter of 2003. The total financial obligations ratio (a broader measure that includes automobile lease payments, rental payments, home owners insurance, and property tax payments) was an average of 18.32% during the same time in 2003. For homeowners this ratio was 13.91% and for renters this was 31.43%.
- In 2001, 7 percent of families reported at least one debt payment was overdue. This percentage was higher with low to moderate income families and those under 35 years old.
- According to the Federal Reserve Board, charge off rates by American banks in the fourth quarter of 2003 was 5.89%.
- Delinquency rates for American banks in the fourth quarter of 2003 was 4.49%.
- Credit card companies mailed over 5 billion offers to US households in 2001.
- According to Nellie Mae, the average college student owes \$3,262 in credit card debt and \$17,140 in student loans after they graduate totaling \$20,402.
- 84% of college students have at least one credit card an increase of 24% since 1998.

According to a report Retiring in the Red by Demos, a nonprofit organization dedicated to furthering issues regarding democracy reform, economic development, and America's long-range challenges:

- Americas Seniors over the age of 65 increased their credit card debt 89% between 1992 and 2001.
- Seniors between 65 and 69 years old, presumably the most recently retired, increased credit card debt 217% to an average of \$5,844.
- Among seniors with incomes under \$50,000 (70% of all seniors), about *one in five* families with credit card debt is in hardship – spending over 40% of their income on debt payments, including mortgage debt.
- Transitioners (people ages 55 to 64) experienced a 47% increase in credit card debt between 1992 and 2001, to an average of \$4,041.
- Credit card debt of low to moderate transitioner families without health insurance increased 169% as opposed to 37% for similar families with health insurance.

HB 140 Montana Consumer Debt Management Act

1. This bill is aimed at creating a Montana Consumer Debt Management Services Act that would accomplish the following:
 - Establish requirements for debt management plans entered into between consumers and credit counseling services
 - Designate prohibited practices for credit counseling services
 - Provide remedies and penalties
2. Specifically, this bill will meet the above goals through the following provisions:
 - A licensure section that requires
 - i. A license fee as established by the department by rule
 - ii. The maintenance of a trust account for consumer funds
 - iii. Accreditation by a bona fide third-party certification provider
 - iv. Certification of credit counselors by a bona fide third-party certification provider
 - v. A guarantee that a majority of the owners, principals, officers, board of directors, or employees are not persons who have a conflict of interest with applicant's mission
 - vi. The maintenance of an office in this state with a credit counselor on premise
 - vii. A surety bond
 - viii. Annual audits by independent C.P.A.
 - A debt management section that requires
 - i. Name and principal business address of credit counseling service and the name and address of the consumer
 - ii. Detailed description of the services to be performed
 - iii. A clear statement of costs to the consumer
 - iv. A statement that the debt management plan may be terminated for any reason by the consumer
 - v. A complete list of the obligations of each party
 - vi. An indication of how disputes are to be resolved
 - vii. A report for the consumer that shows the funds received from the consumer and how those funds were dispersed since the last report
 - A prohibited practice section that prohibits
 - i. The purchase of any debt or obligation of a consumer
 - ii. The lending of money or providing credit to a consumer
 - iii. Obtaining a mortgage or other security interest in any property of the consumer
 - iv. Operating as a collection agency
 - v. Structuring a debt management plan in a way where the plan's conclusion does not fully amortize any debt of the consumer under the plan
 - vi. Charging for or providing credit insurance
 - vii. Causing or attempting to cause a consumer to waive any right or benefit as granted by Sections 1 through 7
 - viii. The Advertising of a credit counseling service without being licensed by the department
 - ix. The misrepresentation of any material fact or the making of promises by a credit counseling service to induce a consumer into entering a debt management plan
 - A remedies section that provides the following:
 - i. Any violation constitutes unfair a deceptive trade practice and is a violation of 30-14-103
 - ii. A person found in violation is liable t the person harmed for actual and consequential damages or \$500, whichever is greater, for each violation, plus costs and attorney fees
 - iii. A person harmed by a violation may sue for injunctive and other appropriate equitable relief
 - iv. A person harmed by a violation may bring a class action law suit
 - v. The department, attorney general, or county attorney, on behalf of state residents who have suffered a loss or harm as a result of violation may seek any remedy provided by Title 30, Chapter 14, Part 1

Montana State Legislature

Exhibit Number:

3

This exhibit is a manual, which cannot be scanned. The front cover of the manual has been scanned for your research. The original exhibit is on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives, 225 N. Roberts, Helena, MT 59620-1201; phone (406) 444-4774. For minutes in paper format, please contact the Montana State Law Library, Justice Building, 215 N. Sanders, Helena, MT 59620; (406) 444-3660. Tapes and exhibits are also available at the Historical Society (tapes are retained for five years). Scanning done by: Susie Hamilton

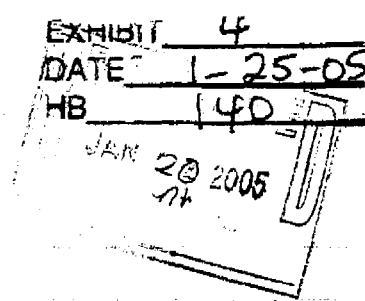
EXHIBIT 3
DATE 1-25-08
HB 140

HB 140

Montana Consumer Debt Management Act

Briefing Book

Prepared by
Consumer Credit Counseling Service of Montana, Inc.
2022 Central Ave
Great Falls, Montana 59403
406-761-8721



In Nov. 2001 we joined Cambridge Credit Counseling Corp. in order to pay off credit card debt.

We agreed to pay \$358 a month which included a \$35 a month fee to Cambridge. This was for the cost of sending payments to the creditors and dealing with them.

What we basically weren't informed clearly was they without the 1st month's payment. This set us even further behind. They didn't lower or change any ^{interest} ~~interest~~ payments. We called and was told we would have to negotiate that with the creditors ourselves. They weren't allowed to do it. So we are falling further and further into debt instead of getting out.

Enclosed are the figures for the original balances and the balances after 37 months of making payments to Cambridge. We had tried to contact them several times by mail which always went unanswered. At first we were not provided with an 800 number for them. We would pay for the phone calls. They did ~~for~~ get to where I'd

Call them, they'd return the call.
By accident I finally got a 1-800
number.

You were supposed to be eligible
after six months for a "Good
payer" reward. The understanding
was a check would be sent
every six months if you paid
on time. This supposedly comes
from participating creditors for the
helpful services provided to us.
For example if Cambridge receives
\$500, you are given \$250. The
first thing it isn't automatic you
have to call and request the check.
Otherwise it's kept "on account" until
you do request it. The amount
varied each time but was always
less than \$100, usually around
\$30-\$40.

The Loan Referral Program as
well as the Hardship Program
were never explain to us. I
still do not know anything
other than the printed material
sent us.

This is all included in
the original membership information
which a copy is included with
this letter.

We would often received notice
from the ~~the~~ Creditors where

payments weren't paid. It was usually a case where they hadn't ~~re~~ received payment by the due date. Since Cambridge was paid on the third of every month, there was no reason why the ~~bank~~ creditors didn't receive payment on or before their due date.

Mary Jo Zimmerman

Jan. 20, 2005

		Original	Still Owed	Paid
Provincial	\$ 60	2697 ⁸³	1381 ²⁵	716 ⁵⁸
Provincial	\$ 80	2911 ⁸²	2092 ⁵⁷	819 ²⁶
pd Capital One	\$ 15	180 ⁰⁰	83 ⁵⁹	96 ⁴¹
FNAB	\$ 43	1221 ¹⁷	552 ³²	668 ⁵⁵
Capital One	\$ 15	171 ⁴³	-0-	171 ⁴³ +
Orchard	\$ 15	356 ⁴⁵	30 ¹⁹	326 ⁵⁷
Capital One	\$ 14	613 ⁶³	437 ³²	176 ³¹
Capital One	\$ 16	588 ²⁶	516 ⁷⁴	41 ⁵²
Bank One	\$ 32	934 ⁰⁸	309 ⁷⁴	625 ⁰⁸
Bank One	\$ 31	892 ⁰³	440 ¹²	452 ⁰³
		4966 ⁸¹	5842 ⁹⁶	4093 ⁵⁴

Payments 358

$\times 27$ mo
\$ 9666

sent to Cambridge

\$35 mo $\times 27$ - 945

Payment to Cambridge

9666 - 945 = \$8721

amt. pd minus Cambridge payments

\$8721 - 4093.54 = 4,627⁴⁵

I understand there is a certain amount of interest, etc. but \$4,627⁴⁷ unaccounted seems to be a trifle high to be all interest.

Since we have left Cambridge, we sought the help of Consumer Credit Counseling Service of Montara.

I called and explained the problems we had with Cambridge. My husband and I went in for a counseling session which lasted about an hour. They figured out our debt, our income and came up with a cost considerably less than what we'd been paying Cambridge.

Our payments would be \$232 of which \$21 would be the monthly fee. Our ~~total~~ initial cost was less than \$100 (Remember Cambridge kept a payment of \$358 for their initial start-up.)

Our original amount with CCCS was 5,717. We have paid the creditors down to \$4,629 since they started with us in May. That's \$1,088 off our debt. We manage to pay off two accounts, leaving seven of the original 10.

In asking CCCS what would be done with the amount that was paid to these paid accounts, we were told a couple of alternatives. It was then decided that if we added simply \$5 more to our

payments to CCCS, we could raise the remaining seven \$5 ~~per~~ a month. It's not much but seems to be making a big difference on the remaining balance.

CCCS also ~~gave~~ gave us several hints on how to cut expenses. They have always answered any questions promptly. They've never condemn us or judged us in any way.

We feel that we have made considerably more progress with CCCS since May that we made with Cambridge in 27 months.

Mary Jo & Joe
Zimmerman

The BBB report says consumers complained about unauthorized withdrawals, failure to disclose that their initial payment is taken as a setup fee and failure to state the company's true nature.

CCC isn't a debt counseling company after all, Pepper said.

"He's a telemarketer. He would get the information and take an upfront fee," she said. The Florida company then hands debtors off to other companies, including one in Evanston, Wyo.

Trouble in paradise

Calls to Nabydoski were not returned.

However, a man identifying himself as Edward Kennedy of the Hess Kennedy law firm in George Town, Grand Cayman, called saying he represented the company.

The Consumer Credit Counseling name is not trademark-protected, he said, adding that he didn't think his client had intentionally advertised in Billings.

The privately held company is in compliance with Florida laws, he said.

When asked for his telephone number, Kennedy said, "Have a great day," then hung up.

Pepper at the BBB wondered if the man's name was real or taken from the senior senator from Massachusetts. The company's address in the commonwealth state, she said, is just a mail drop, and telemarketers often work under false names.

Helena gets involved

Cort Jensen, the lead attorney at the Montana Office of Consumer Protection in Helena, has his eye on the Florida company.

Apparently to get a local phone number, it listed a street address in Billings that turned out to be AT&T's address - a building so secure that even the postman can't enter.

Under Montana law, companies cannot use unfair or deceptive practices. Only nonprofits or companies bonded in this state can counsel debtors. The Florida company isn't bonded here, and it has registered as a for-profit in its home state.

One consumer has complained about this company to Jensen's office and so has the CCCS of Montana.

"I really don't want Montanans to get hurt and they could," Jensen said.

Montana law leaves nonprofits mostly unregulated. However, House Bill 140, which would set up some controls, gets a hearing before the Montana Legislature on Tuesday.

Jensen has placed two telephone calls to Florida.

"They haven't returned my calls. I can't imagine why. Wait. Irony doesn't translate well in newspapers, so I'll restate," he said. "If the company is legitimate and if it is complying with Montana law, I'd love to have them contact me."

Tracing the listing

Qwest Communications, the regional "Baby Bell" serving Montana and Wyoming, sold its telephone directory business.

Pat Nichols, who represents Dex in Denver, said the CCC in Florida isn't a customer because it didn't buy a phone book ad. Its only listing is in the white pages. Those are local numbers that come directly from Qwest.

"We are obligated to print the Qwest and other listings exactly as we receive them," she said.

Dex cannot police all the millions of telephone listings it receives, she added.

"However, we are very concerned, especially when it affects consumers and a legitimate company in Billings," Nichols said.

The CCCS of Montana has hired a Billings attorney to obtain a preliminary injunction. A court order, Jacobson said, could make Qwest either disconnect the bogus number or route the Florida calls to its office on Alderson Avenue.

Windin' up in Wyoming

After the Florida telemarketers land the clients, they are farmed out to other credit counseling firms, including one in Wyoming.

An Evanston, Wyo., company using the name Family Financial Education Foundation is taking referrals, according to the Central Florida BBB.

Family Financial also bought an ad in the Billings Yellow Pages. The Web site (www.ffef.org) says it processes up to 1,200 new clients each month.

The company has been in business since 1990 and has a 501(c)(3) non-profit status.

Jensen said credit counseling companies must have a non-profit status to work in most states. The IRS is re-evaluating this designation that allows so many companies in this industry to avoid paying taxes.

"Non-profit status has nothing to do with the charitable purpose or legitimacy of a business," Jensen said.

Family Financial has a satisfactory rating with the Better Business Bureau.

The company's President and Chief Executive William Richards Cluny did not return telephone calls.

"If this Florida listing truly is supposed to be a number for the Wyoming company, why not use its own name?" Jensen said.

What's a consumer to do?

Jacobson said consumers need to work with a company close to home that they can actually visit.

If that isn't feasible, he said they must check out the companies carefully and have an attorney read the contract before they sign.

All this, he said, is a sad diversion.

"We're having to spend resources, time and money defending our integrity against this nonsense instead of helping our consumers," he said.

"I can't tell you how frustrating it is."

Jan Falstad can be contacted at (406) 657-1306 or at jfalstad@billingsgazette.com.

Click here to return.



EXHIBIT 6
DATE 1-25-05
HB 140

January 25, 2005

Representative Jim Keane
House Standing Committee on Business and Labor
Room 172 State Capitol Building
Helena MT 59601

Support of HB 140: AN ACT CREATING A MONTANA CONSUMER DEBT MANAGEMENT SERVICES ACT

Mr. Chairman and members of the committee, my name is Alex Ward, Associate State Director for AARP Montana. As a matter of background I was a law enforcement officer for 25 years and served as a Crime Prevention Detective for 17 years.

AARP is a non-profit, non-partisan membership organization with more than 143,000 members in Montana. A recent AARP Montana Member Survey (published in January 2005) indicated that a majority of those surveyed thought that consumer protection against business fraud should be viewed as Montana's top legislative priority.

Recent years have shown that after peaking in 1986 at more than 17 percent of disposable personal income, consumer debt payments began to drop in the early 1990's. In 1992, they bottomed out at 14.5 percent of personal income, but they increased to 19.3 percent in 2002 – the highest in more than three decades. As a result, there was a record high of almost 1.5 million personal bankruptcy filings in 2002. According to a 2003 survey of consumer finances, the average credit card balances of households of those 65 years old and older increased 149 percent from \$1,626 in 1989 to \$4,041 in 2001. An AARP survey of persons age 50-59 in April 2001 indicated that many felt that debt management was very important.

According to FTC Chairman Thomas Leary in testimony before the Congress on March 24, 2004:

“... [T]he credit counseling industry has experienced dramatic growth, attributable in large part to ballooning consumer debt and the resulting demand for credit counseling to prevent default on that debt.”

“Whereas it was once composed mainly of small, local credit counselors, the last decade has seen the rise of large, high-tech organizations that aggressively market their services to consumers via telemarketing, broadcast and print advertising, and the internet. These organizations, many of which claim non-profit status, represent a new breed in this

industry. Many appear to offer little or no individualized credit counseling, but rather urge all of their clients to enroll in a Debt Management Plan without consideration of their particular financial situations."

"The Commission is concerned about deceptive and other illegal practices in which some Credit Counseling Agencies (CCA) may be engaging. Our greatest concern is deception by CCA's about the nature and costs of the services they offer to consumers."

The unfortunate reality of these practices is that many people who deal with these companies and who are devastated by there practices are consumers who thought they were taking the right steps to get out of debt and avoid bankruptcy. Many of these people, as a result of dealing with these so called consumer counseling organizations end up with a far higher amount of debt and in worse shape with their creditors than before dealing with these organizations.

AARP Montana urges your committee to vote favorably for this bill to better protect consumers from bad practices of consumer counseling services. We also support the sponsor's amendments that were recommended by our national office for the purpose of strengthening this all important piece of consumer protection legislation.

SPONSOR AMENDMENTS TO HB 140

In order to strengthen the bill and to further protect consumers from abusive practices, the following amendments are recommended:

- Under New Section 4 (2) add:

(g) that it has a fiduciary duty to any consumer who receives a debt management plan.

Rationale for amendment: A fiduciary duty requires the credit counseling service to act on behalf of and in the interest of the consumer, as opposed to any creditor with whom the service is working out a plan. This clarifies an issue that has led to abuse of consumers by some credit counseling services.

- Amend New Section 5(2)(d) to read by deleting the language in the bill and substituting with the following provision:

(d) in a prominent location in the plan, in at least 10-point bold type, a statement that either party may cancel the agreement without penalty at any time upon 10 days notice and that a consumer who cancels an agreement is entitled to a refund of all unexpended funds that the consumer has paid to the credit counseling service as of the date of the notice;

- Under New Section 5 subsection 2, add:

(g) provide contact information for the Department and a statement regarding how the consumer may make complaints regarding the credit counseling service.

- Under New Section 5, add:

(4) A debt management plan may charge fees as follows:

a) With respect to the provision of credit counseling services, a provider may not impose any fees or other charges on a consumer, or receive any payment from a consumer or other person on behalf of a consumer except as allowed by this section.

b) The fees or charges referred to in this section include voluntary contributions and any other fees charged to or collected from a consumer or on behalf of the consumer.

c) A credit counseling service may not charge an up-front, initial, set-up or consultation fee that exceeds \$50.00. The fee or a portion of the fee may not be charged until the credit counseling service has complied with Section 5 of this Act.

d) A credit counseling service may charge a monthly maintenance fee on if the fee is fair and reasonable. In the absence of exceptional circumstances, as defined by the Department, a credit counseling service shall assume that a total monthly fee in an amount that does not exceed \$35.00 is fair and reasonable.

e) A credit counseling service may not, as a condition of entering into a debt management

plan, require a consumer to purchase for a fee a counseling session, an educational program or materials and supplies.

f) Fees charged for services other than credit counseling services must be fair and reasonable.

g) If the credit counseling service imposes any fee or other charge or receives any funds or other payments not authorized by this section, except as a result of a bona fide error:

a. The debt management plan shall be void; and

b. The credit counseling service shall return to the consumer all fees received from or on behalf of the consumer.

h) The Department may adjust the amount of the fees in subsection 3 and 4 no more than annually based on an equivalent increase in the Consumer Price Index, published by the US Department of Labor.

i) The Department may set out a schedule of approved fee limits in subsection 6 for various services.

- Under New Section 5, add:

(5) Credit Counseling Services are prohibited from using hold harmless clauses, confessions of judgment, and waivers of right to jury trials in debt management plans.

Comments on and Suggested Amendments to HB 140

Background:

Industry Overview:

For over five decades the credit counseling industry has provided valued and valuable services to financially distressed consumers including personalized financial counseling, personal finance education and, where appropriate, debt management services. Over the past several years, thousands of consumers nationwide have been abused by some consumer credit counseling organizations that have misrepresented the services they offer and the fees they charge consumers for such services. These few, very large new players in the industry have created regulatory and law enforcement problems that were virtually non-existent only a few years ago. In response to this problem, there has been a flurry of legislative, regulatory and law enforcement activity at both the state and federal levels.

New state statutes regulating the activities of credit counseling organizations have been introduced in over a dozen states in the past year alone. Additionally, the Federal Trade Commission, numerous state attorneys general and the Internal Revenue Service have undertaken extensive auditing and enforcement actions directed at curbing the activities of organizations that have abused consumers and/or the 501c3 tax-exempt status granted to non-profit credit counseling organizations.

New legislation introduced by Montana Rep. John Parker in the form of HB 140 is directed at protecting Montana consumers from the types of abuses recently evidenced in the credit counseling industry and creates a level playing field in which legitimate credit counseling organizations can extend much needed services to financially distressed Montana households.

Take Charge America, Inc. Overview:

Take Charge America, Inc (TCA) is one of the nation's oldest and largest non-profit credit counseling organizations. TCA served a national clientele from its Bozeman, MT offices from 1987 through 1998. Although the Bozeman office, along with several other TCA branches, was consolidated into one national servicing center in Phoenix, AZ in early 1998, TCA continues to serve a significant number of Montana households. In partnership with Montana State University, TCA has developed a significant, national award winning financial literacy program. Through the program, scores of Montana high school teachers have developed and learned to deliver curricula in personal finance to thousands of Montana high school students. The prototype is now being exported to a national audience and is a true "Point of Pride" for MSU and all Montanans.

Each year, Take Charge America, Inc. administers over 75,000 debt management plans and manages over 500 million dollars of client trust funds. Additionally, TCA provides

personal financial counseling and educational services to another 100,000 U.S. households. TCA has been good corporate citizen in Montana and we fully support passage of HB 140 with the minor modifications outlined in this document.

TCA Comments on and Suggested Changes to HB 140 include:

Section 3. Definitions.

3.1 – We suggest that this section be changed to read:

“Consumer” means any individual who resides in the State of Montana.

Section 4. Requirements for licensure...

4.2a – We suggest that this section be changed to read:

that the licensee maintain a separate trust account in a federally insured bank into which all funds received from consumers under the terms of a debt management contract are deposited. All consumer funds must remain in the trust account until either disbursed to one or more creditors of a consumer engaged in a debt management agreement, disbursed to the licensee for fees earned under the terms of a debt management agreement or are returned to the consumer client.

4.2c – We suggest that this section be shortened to read:

that a majority of its owners, principals, officers, directors or employees are not persons who have a conflict of interest with the applicants mission.

4.2d – We suggest that this section be deleted from the statute:

The vast majority of states regulating the credit counseling process do not have such a provision in their state statute. Even those states that do have such a provision, such as Indiana, Wisconsin and Idaho do not enforce the provision upon non-resident licensees.

None of the numerous new state statutes introduced and/or enacted in 2003-2005 have such a requirement.

No consumer protection is afforded to the public through the inclusion of this provision. It is strictly intended to restrict competition in the credit counseling industry.

Take Charge America, Inc. is a model example of a non-resident company that has provided outstanding and problem free counseling, education and debt management services to Montana residents without the necessity of maintaining a local presence.

It is more sensible to license and manage credit counseling services than it is to deny Montana households the right to choose from amongst a host of legitimate service providers regardless of where they are domiciled.

Under the proposed statute, Montana regulators and law enforcement agencies should and will have the same right to audit resident and non-resident licensees to ensure their legitimacy and compliance with Montana law.

Take Charge America, Inc. is an Arizona non-profit corporation, is licensed and bonded in more than 20 states and is not required by any state other than Arizona, where TCA is domiciled, to maintain a local office.

The requirement to maintain a local office in Montana would impose undue economic burden upon TCA, endanger its current contractual relationships with Montana residents and imperil our more than \$1,000,000 educational programs development grant to Montana State University.

4.2e

We would recommend that HB 140 provide some guidelines to the department of administration relative to the establishment of bonding levels for perspective licensees.

Section 5 – Requirements for debt management plans

5.2c – We recommend that this section be amended to read:

a clear statement of all costs, including voluntary contributions, charged to consumers for all services that are to be provided under the terms of a debt management agreement.

5.2d – We recommend that this section be amended to read as follows:

a statement that the debt management plan may be terminated by the consumer at any time, for any reason and without penalty.

5.2f - We recommend that this provision be deleted from the statute.

The statute already provides for significant regulation of the process. Disputes should be resolved between the parties to the contract based upon their individual merit, using the contract agreement as the guideline for determining licensee performance or the lack thereof. If this section remains, significant discussion must be held between the department of administration and licensees to determine appropriate contract language.

5.3 – We recommend that this section be amended to read:

the credit counseling service shall provide a fully detailed statement of the consumers individual trust account activity that shows the disposition of all funds received since the

last report. Statements should be made available at any time upon a consumers' request or not less frequently than each 30 days.

Section 7 – Remedies

7.5 – We recommend that this section be deleted from the statute.

Sufficient protections are afforded to individual consumers through the enactment of this statute and extending the right to a consumer to file a class action does not enhance the rights or protections that this statute is intended to provide to that individual consumer.

Under certain conditions, class actions do make sense. Too often however, consumers have abused this right and have used the threat of class action to coerce legitimate service providers in many industries, who are not guilty of any contractual infraction, to succumb to unrealistic demands and to make unwarranted concessions.

FINANCIAL CARE CENTER LOCATIONS

GREAT FALLS

761-8721 OR 800-823-1323

HELENA

443-1774 OR 800-823-1429

HAVRE

265-3633 OR 800-823-1684

MISSOULA

543-1188 OR 800-823-4642

KALISPELL

257-4069 OR 800-823-5990

BUTTE

723-5176 OR 800-411-2227

BOZEMAN

582-9273 OR 800-901-9273

BILLINGS

656-4370 OR 888-923-2327

24-HOUR PHONE COUNSELING:

1-877-275-2227

CODE OF ETHICS

Consumer Credit Counseling Service of Montana, Inc. is dedicated to providing confidential and professional counseling in aiding and rehabilitating financially distressed families and individuals regardless of race, color, creed, sex, social position, or financial status, and in fostering community consumer education on family money management and the intelligent use of credit.

Consumer Credit Counseling Services
PO Box 2326
Great Falls, MT 59403



EDUCATION PROGRAMS

For more information:

1-877-ASK-CCCS

www.cccsmt.org



NATIONAL FOUNDATION FOR
CREDIT COUNSELING

Financial Literacy by People Who Care



ACCREDITED
COUNCIL ON ACCREDITATION
OF SERVICES FOR FAMILIES
AND CHILDREN, INC.

EXHIBIT 9
DATE 1-25-05
HB 140

PROGRAMS THAT FIT YOUR NEEDS!!

HOW CAN CCCS HELP?

If your area of expertise is not in money management, let us do the work! CCCS can provide a variety of workshops for any organization. We have standardized programs, or can develop a specialized program to fit your needs. We can provide workshops of any length in your place of business or ours.

We hold money management classes on a regular basis in each of our Neighborhood Financial Care Centers. These classes are free and open to the public.

SCHOOLS...

Where did you learn how to handle your money? If you said "in school", you are one of the few. Although educators are realizing the importance of money management skills, we have not yet reached the point of offering these classes in all of our schools.

As an organization that sees the results of poor money management every day, we want to be pro-active in helping our children. Our school programs can be valuable supplements to lessons already being taught in your classrooms. We

will work with you to provide a program that suits your classroom needs.

EMPLOYERS...

As an employer, you know that personal problems often spill over into the work place. Is your payroll department spending hours on garnishments? Do your employees often ask for advances on their paychecks? Do you hear a lot of break-room talk about the stresses of living paycheck to paycheck?

If you are dealing with these problems, we can help your employees learn better money management skills. By showing your employees you care, you will help to increase productivity, decrease stress levels, and provide financially sound consumers to your community.

CLIENTS...

Life happens, and sometimes we need a little extra help to get back on track. Often, clients need the assistance of multiple services in order to get their life back in order. If your clients are feeling the stresses of financial difficulties, we can help. Education workshops help clients learn how to take control of their financial situation, instead of letting their finances control them.

EDUCATION PROGRAMS

Following are some of our more popular workshops...

Taking Control of Your Money

Learning how to manage your money through setting goals; budgeting, saving, tracking expenses, cutting expenses, and preparing for the future.

Repairing Your Credit, Can It Be Done?

Taking a look at credit reports, what they contain, and how long the information stays on them. Communicating with creditors, your rights and responsibilities. Power payments and re-establishing credit.

Credit 101: Positives/Negatives of Credit

Advantages and disadvantages of credit.

How to establish, maintain and use credit.

Cost of using different credit options. Credit reports, what are they?

High School Program Suggestions:

Hot Wheels, Going to College, Effects of Advertising, Credit 101

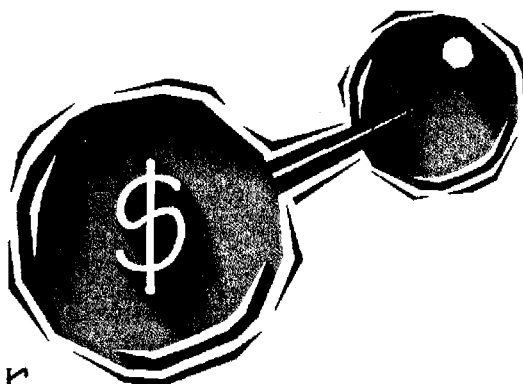
Other Program Suggestions:

Scams, Dollar Wise Dressing, Love and Money, Eating your Budget, Managing Your Bank Account

FTC FACTS for Consumers

Fiscal Fitness

Choosing a Credit Counselor



Living paycheck to paycheck? Worried about debt collectors? Can't seem to develop a workable budget, let alone save money for retirement? If this sounds familiar, you may want to consider the services of a credit counseling agency. Usually nonprofit, these agencies work with you to solve your financial problems — sometimes for free. Credit counseling agencies may offer educational materials and workshops, or help you develop a budget. Many agencies offer services nationwide through local offices or the Internet. Look under “credit counseling” in your telephone directory or your Internet search engine.

DEBT REPAYMENT PLANS

If your financial difficulties arise from too much debt or an inability to repay your debts, a credit counseling agency may work out a Debt Repayment Plan for you. In these plans, you deposit money each month with the credit counseling agency. Your deposits are used to pay your creditors according to a payment schedule the counselor develops with you.

As part of the repayment plan, you may have to agree not to apply for — or use — any additional credit while you're participating in the program. A suc-

Facts for Consumers

Successful repayment plan requires you to make regular, timely payments, and could take 48 months or longer to complete. Some credit counseling agencies charge little or nothing for managing the plan; others charge a monthly fee that could add up to a significant charge over time.

A debt repayment plan does not erase your credit history. Under the Fair Credit Reporting Act, accurate information about your accounts can stay on your credit report for up to seven years. A bankruptcy can stay on your report for ten years. In addition, your creditors will continue to report information about accounts that are handled through a debt repayment plan. For example, creditors may report that an account is in financial counseling, that payments have been missed, or that there are write-offs or other concessions. But a demonstrated pattern of timely payments should help you get credit in the future.

SECURED AND UNSECURED DEBT

Your debts are either secured or unsecured. Secured debts usually are tied to an asset, like your car for a car loan, or your house for a mortgage. If you stop making payments, the lender can repossess your car or foreclose on your house. Unsecured debts are not tied to any asset. Examples include most credit card debt, bills for medical care, signature loans and debts for other types of services. Debt repayment plans usually cover only your unsecured debt. If your secured debts are not included in the plan, you must continue to make payments to these creditors directly.

When you borrow money to buy a car, the lender generally holds the title to the car until the debt is paid in full. Most automobile financing agreements allow the lender to repossess your car if you stop making payments. No notice is required. If your car is repossessed, you may have to pay the full balance due on

the loan, as well as towing and storage costs, to get it back. If not, the lender may sell the car, perhaps for less than what you still owe. You still are responsible for the difference. If you fall behind with your car payments, consider working with the holder of the title of your car to sell it yourself. Pay off the debt to avoid repossession and a negative entry on your credit report.

If you fall behind on your mortgage, contact your lender immediately to avoid foreclosure. Most lenders will work with you if they believe you're acting in good faith and the situation is temporary. Some lenders may reduce or suspend your payments for a short time. When you resume regular payments, you may have to pay extra toward the past due total. Lenders may agree to change the terms of the mortgage by extending the repayment period to reduce the monthly payments. Ask about any fees charged for these changes, and consider how much they add to the total cost of your loan.

If you and your lender cannot work out a plan, contact a housing counseling agency. Some agencies limit their counseling services to homeowners with FHA mortgages, but many offer free help to any homeowner having trouble making mortgage payments. Call the local office of the Department of Housing and Urban Development (HUD) or the housing authority in your state, city, or county for help in finding a housing counseling agency near you.

CHOOSING AN AGENCY:

QUESTIONS TO ASK

If you want to work with a credit counseling agency, interview several. Here are some questions to ask. Check with your state Attorney General, local consumer protection agency and the Better Business Bureau to find out if consumers have filed complaints about the

provider you are considering. Any reputable credit counseling agency should send you free information about itself and the services it provides without requiring you to provide any details about your situation. If not, consider that a red flag and go elsewhere for help.

Services and Fees

- ✓ What services do you offer?
- ✓ Do you have educational materials? If so, will you send them to me? Are they free? Can I access them on the Internet?
- ✓ In addition to helping me solve my immediate problem, will you help me develop a plan for avoiding problems in the future?
- ✓ What are your fees? Do I have to pay anything before you can help me? Are there monthly fees? What's the basis for the fees?
- ✓ What is the source of your funding?
- ✓ Will I have a formal written agreement or contract with you?
- ✓ How soon can you take my case?
- ✓ Who regulates, oversees and/or licenses your agency? Is your agency audited?
- ✓ Will I work with one counselor or several?
- ✓ What are the qualifications of your counselors? Are they accredited or certified? If not, how are they trained?
- ✓ What assurance do I have that information about me (including my address and phone number) will be kept confidential?

Repayment Plan

- ✓ How much do I have to owe to use your services?
- ✓ How do you determine the amount of my payment? What happens if this is more than I can afford?
- ✓ How does your debt repayment plan work? How will I know my creditors have received payments? Is client money put in a separate account from operating funds?
- ✓ How often can I get status reports on my accounts? Can I get access to my accounts online or by phone?

- ✓ Can you get my creditors to lower or eliminate interest and finance charges or waive late fees?
- ✓ Is a debt repayment plan my only option?
- ✓ What if I can't maintain the agreed-upon plan?
- ✓ What debts will be excluded from the debt repayment plan?
- ✓ Will you help me plan for payment of these debts?
- ✓ Who will help me if I have problems with my accounts or creditors?
- ✓ How secure is the information I provide to you?

FOR MORE INFORMATION

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint, or to get free information on any of 150 consumer topics, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at www.ftc.gov. The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

The U.S. Consumer Information Center distributes a variety of brochures on credit related issues. To request a Consumer Information Catalog listing these publications, visit the web site at www.pueblo.gsa.gov, call 1-888-PUEBLO (1-888-878-3256) or write Consumer Information Catalog, Pueblo, CO 81009.

Your local Cooperative Extension Service office conducts educational programs on credit-related issues and produces a variety of educational materials. Check your local government listings in the phone book for the office nearest you or check the Internet at www.money2000.org.

Facts for Consumers

FEDERAL TRADE COMMISSION	FOR THE CONSUMER
1-877-FTC-HELP	www.ftc.gov

Federal Trade Commission
Bureau of Consumer Protection
Office of Consumer and Business Education

April 1999

Produced in cooperation with the Cooperative State Research, Education and Extension Service, U.S. Department of Agriculture; the U.S. Consumer Information Center; and Oklahoma State University Cooperative Extension Service



ASSOCIATION OF INDEPENDENT CONSUMER CREDIT COUNSELING AGENCIES

A NON-PROFIT CORPORATION

EXHIBIT 10
DATE 1-25-05
HB 140

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EXECUTIVE DIRECTOR
Suzanne A. Bingham

Testimony of John Berglund Regarding HB 140

First let me begin by thanking you for letting me offer testimony on HB140 today. My name is John Berglund and I'm here on behalf of The Association of Independent Consumer Credit Counseling Agencies (AICCCA). AICCCA is a trade association based in Washington D.C. that has approximately 35 non-profit IRS 501(c)(3) tax-exempt credit counseling agencies as members, several of whom serve consumers in the state of Montana. The Association's standards require member agencies to abide by a stringent set of standards including being licensed by any state that requires it. We believe this legislation, with certain amendments, is quite good and will afford Montana consumers a significant level of protection.

There are two areas of concern that I will address today. Before discussing those exceptions let me give you some personal background about myself. I've worked for The Consumer Credit Counseling Service of Greater Denver (CCCS of Greater Denver) since 1994 and prior to that I referred consumers in financial difficulty to this non-profit credit counseling organization since 1976 when I first became aware they existed. CCCS of Greater Denver came into existence in 1967. I served as Chair (2001-2002) of the National Foundation for Credit Counseling (NFCC). I also served the NFCC as Vice Chair for two years (1999-2001) and as Chair of their Legislative Committee (1997-1999).

The first Section we have concerns about is the language in Section 3 (6) which permits for-profit entities to provide credit counseling and debt management services to consumers. Currently for-profit entities have not entered the credit counseling field on any significant level because they have not found it profitable to do so or because state law prohibits them from doing so. Their goal is to make a profit, not to provide charitable services. The current abuses in credit counseling that have caused the United States Senate Permanent Sub-Committee on Investigations to hold a hearing this past April were committed by non-profit corporations that acted like for-profit companies.

These companies violated the rules under their IRS exempt status. The IRS is in the process of auditing and revoking the exempt status of a number of such companies at the present time. The IRS is also denying applications for new entrants into credit counseling who do not have the education of the consumer as their primary focus with debt management as only incidental to that activity. These recent actions provide

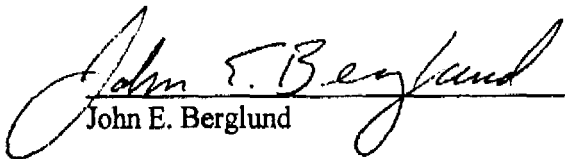
renewed assurances that the consumer protections contemplated by tax-exempt status are realized.

It isn't that being a 501(c)(3) guarantees there will never be companies that break the rules and harm consumers it is that by allowing for-profit companies into the business you are legitimizing behavior that led to consumers being harmed in the first place. Based on this history we believe that the only way to provide reasonable consumer protection is through the requirement of tax exempt status for credit counseling companies rather than to build in 501(c)(3) standards into Montana law. We and major consumer advocacy groups oppose any law that allows for-profit credit counseling both on the grounds that it provides an inherent conflict of interest and because for-profit credit counseling behavior has been the source of most abuses.

The second section I wish to comment on is the requirement that licensees must have an in-state office with a credit counselor on the premises. Currently Montana residents are probably being served by more than 25 credit counseling agencies almost all of whom do not have a physical presence in the state. By enacting this particular requirement, Montana consumers will have their choices severely limited. It is difficult to see how this is beneficial to Montana consumers in need of debt counseling. Qualified credit counselors can provide needed counseling by telephone or the Internet no matter where they are located.

If your concern relates to monitoring and controlling out-of-state agencies, this can be addressed through licensure and by requiring out of state licensees to pay the cost of Montana auditors traveling to the out of state agency headquarters to audit records pertaining to Montana consumers. This is currently being done very effectively by the States of New York and Virginia as well as many others.

Thank you again for allowing me this opportunity to address this committee.

 1-24-05
John E. Berglund Date

CCCS of Greater Denver a Division of
Money Management International
10375 E. Harvard Ave, #300
Denver, CO 80231

Tele: (303) 632-2247
Fax: (303) 632-2101
e-mail: jberglund@cccsdenver.com

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 1-25-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JIM KEANE, CHAIR.	✓		
REP. KATHLEEN GALVIN-HALCRO, VICE CHAIR.	✓		
REP. JOE MCKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN			
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA	✓		
REP. JONATHAN WINDY BOY	✓		

VISITORS REGISTER

Montana

House of Representatives

Business & Labor Committee

Bill Number: HB 140

Date: 1/25/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
MIKE HALL	TAKE CHARGE AMERICA	X		
Dan KOTTEL	CCCS	X		
DIANA ZBINDEN	CCCS	X		
Melanie Graham	CCCS	X		
Tom Jacobson	CCCS	X		
John Berglund	AICCA			X
AL WARD	AARP	X		
Curt Jensen	CPO	X		

Please leave prepared testimony with Committee Secretary. Witness
Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on February 8, 2005 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Dan Villa (D)

Members Excused:

Rep. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 532, 2/2/2005; HB 483, 2/2/2005;
HB 481, 2/2/2005; HB 493, 2/2/2005
Executive Action: HB 140, HB 331, HB 419

HEARING ON HB 532

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, opened the hearing on HB 532,
Pharmaceutical advertising act.
00:03:25

Proponents' Testimony:

00:07:53 Claudia Clifford, AARP

EXHIBIT(buh31a01)

Opponents' Testimony:

00:14:32 Russ Spencer, Pfizer Drug Company

EXHIBIT(buh31a02)

00:30:47 Barbara Ranf, Montana Chamber of Commerce

Informational Testimony: None

Questions from Committee Members and Responses:

00:32:06

Closing by Sponsor:

00:46:02

HEARING ON HB 483

Opening Statement by Sponsor:

REP. BOB BERGREN (D), HD 33, opened the hearing on HB 483,
Binding arbitration for police officers.
00:52:15

Proponents' Testimony:

00:59:17 Jerry Williams, Police Protective Association

01:02:55 Levi Talkington, Lewistown Police Department

01:05:26 David Cardillio, Billings Police Officer

01:07:44 Pat Clinch, Montana State Council of Professional
Firefighters

01:08:55 Tom Schneider, Public Employees Association

01:11:08 Jim Whitaker, Great Falls

01:11:36 Don Kingman, State, County and Municipal Employees

EXECUTIVE ACTION ON HB 140

Motion: REP. GALVIN-HALCRO moved that HB 140 DO PASS.

Discussion:

03:30:18

Motion: REP. GALVIN-HALCRO moved that HB 140 BE AMENDED.

Discussion:

03:31:14

EXHIBIT(buh31a08)

Vote: Motion carried unanimously by voice vote. REP WINDY BOY voted by proxy.

Motion/Vote: REP. GALVIN-HALCRO moved that HB 140 DO PASS AS AMENDED. Motion carried unanimously by voice vote. REP WINDY BOY voted by proxy.

EXECUTIVE ACTION ON HB 331

Motion: REP. GALVIN-HALCRO moved that HB 331 DO PASS.

Motion: REP. GALVIN-HALCRO moved that HB 331 BE AMENDED.

Discussion:

03:34:02

EXHIBIT(buh31a09)

Motion: REP. GALLIK moved to segregate 1,2,3,4 from 5, 6,7, 8

Vote: Motion carried unanimously by voice vote.

Motion/Vote: REP. GALLIK moved that HB 1, 2, 3, 4, DO PASS. Motion carried unanimously by voice vote. REP WINDY BOY voted by proxy.

03:37:38

Motion/Vote: REP. GALVIN-HALCRO moved that 5,6,7,8 DO PASS. Motion carried 15-3 by voice vote with REPS. DOWELL, GALLIK, and VILLA voting no. REP WINDY BOY voted by proxy.

Amendments to House Bill No. 140
1st Reading Copy

Requested by Representative Dave Gallik

For the House Business and Labor Committee

Prepared by Bartley Campbell
February 7, 2005 (8:15am)

1. Title, line 8.

Following: "SERVICES;"

Insert: "PROVIDING THE DEPARTMENT OF ADMINISTRATION WITH
RULEMAKING AUTHORITY;"

2. Title, line 8.

Strike: "AND"

Following: "PENALTIES"

Insert: "; REPEALING CERTAIN DEBT ADJUSTMENT LAWS; AND REPEALING
SECTIONS 31-3-201, 31-3-202, AND 31-3-203, MCA"

3. Page 1, line 21.

Following: ";"

Strike: "and"

4. Page 1, line 23.

Following: "accountant"

Insert: "; and

(d) debt collectors that do not advertise or hold
themselves out as a credit counseling service"

5. Page 3, line 18.

Following: "plans"

Insert: "-- rulemaking authority"

6. Page 3, line 29 through line 30.

Strike: "a" on line 29 through "provided" on line 30

Insert: "a statement, in a prominent location in the plan in at
least 10-point bold type, that either party may cancel the
agreement without penalty at any time upon 10 days' notice
and that a consumer who cancels an agreement is entitled to
a refund of all unexpended funds that the consumer has paid
to the credit counseling service as of the date of the
notice"

7. Page 4, line 1.

Strike: "and"

8. Page 4, line 2.

Following: "resolved"

Insert: "; and

(g) a statement that the credit counseling service has a fiduciary duty to the consumer who is a party to a debt management plan"

9. Page 4, following line 6.

Insert: "(4) (a) A credit counseling service may not impose any fees or other charges on a consumer or receive any payment from a consumer or other person on behalf of a consumer except as allowed by this section.

(b) The fees or charges referred to in this subsection (4) include voluntary contributions and any other fees charged to or collected from a consumer or on behalf of a consumer.

(c) A credit counseling service may not charge an initial consultation fee that exceeds an amount set by the department by rule. The fee or portion of the fee may not be charged until the credit counseling service has complied with the provisions of this section.

(d) A credit counseling service may charge a monthly maintenance fee. In the absence of exceptional circumstances as defined in the department's rules, a credit counseling service may not have a total monthly fee in an amount that exceeds the amount set by the rules.

(e) A credit counseling service may not, as a condition of entering into a debt management plan, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies.

(f) Fees charged for services other than credit counseling services must be fair and reasonable.

(g) If the credit counseling service imposes any fee or other charge or receives any funds or other payments not authorized by this section, except as a result of a bona fide error, the debt management plan is void and the credit counseling service shall return to the consumer all fees received from or on behalf of the consumer.

(5) Credit counseling services are prohibited from using hold harmless clauses, confessions of judgment, and waivers of the right to jury trials in debt management plans.

(6) The department may promulgate rules as necessary to implement the provisions of [sections 1 through 7], including setting fees."

10. Page 5, following line 7.

Insert: "NEW SECTION. Section 8. {standard} Repealer.

Sections 31-3-201, 31-3-202, and 31-3-203, MCA, are repealed.

{Internal References to 31-3-201: 31-3-203}"

Renumber: subsequent section

- END -

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 2-8-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JIM KEANE, CHAIR.	✓		
REP. KATHLEEN GALVIN- HALCRO, VICE CHAIR	✓		
REP. JOE McKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA	✓		
REP. JONATHAN WINDY BOY			✓



HOUSE STANDING COMMITTEE REPORT

February 8, 2005

Page 1 of 3

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 140** (first reading copy -- white) do pass as amended.

Signed: _____

Jim Keane
Representative Jim Keane, Chair

And, that such amendments read:

1. Title, line 8.

Following: "SERVICES;"

Insert: "PROVIDING THE DEPARTMENT OF ADMINISTRATION WITH
RULEMAKING AUTHORITY;"

2. Title, line 8.

Strike: "AND"

Following: "PENALTIES"

Insert: "; REPEALING CERTAIN DEBT ADJUSTMENT LAWS; AND REPEALING
SECTIONS 31-3-201, 31-3-202, AND 31-3-203, MCA"

3. Page 1, line 21.

Following: ";"

Strike: "and"

4. Page 1, line 23.

Following: "accountant"

Insert: "; and

(d) debt collectors that do not advertise or hold
themselves out as a credit counseling service"

5. Page 3, line 18.

Following: "plans"

Insert: "-- rulemaking authority"

Committee Vote:

Yes 18, No 0.

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2/8/05
jku

6. Page 3, line 29 through line 30.

Strike: "a" on line 29 through "provided" on line 30

Insert: "a statement, in a prominent location in the plan in at least 10-point bold type, that either party may cancel the agreement without penalty at any time upon 10 days' notice and that a consumer who cancels an agreement is entitled to a refund of all unexpended funds that the consumer has paid to the credit counseling service as of the date of the notice"

7. Page 4, line 1.

Strike: "and"

8. Page 4, line 2.

Following: "resolved"

Insert: "; and

(g) a statement that the credit counseling service has a fiduciary duty to the consumer who is a party to a debt management plan"

9. Page 4, following line 6.

Insert: "(4) (a) A credit counseling service may not impose any fees or other charges on a consumer or receive any payment from a consumer or other person on behalf of a consumer except as allowed by this section.

(b) The fees or charges referred to in this subsection (4) include voluntary contributions and any other fees charged to or collected from a consumer or on behalf of a consumer.

(c) A credit counseling service may not charge an initial consultation fee that exceeds an amount set by the department by rule. The fee or portion of the fee may not be charged until the credit counseling service has complied with the provisions of this section.

(d) A credit counseling service may charge a monthly maintenance fee. In the absence of exceptional circumstances as defined in the department's rules, a credit counseling service may not have a total monthly fee in an amount that exceeds the amount set by the rules.

(e) A credit counseling service may not, as a condition of entering into a debt management plan, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies.

(f) Fees charged for services other than credit counseling services must be fair and reasonable.

(g) If the credit counseling service imposes any fee or

other charge or receives any funds or other payments not authorized by this section, except as a result of a bona fide error, the debt management plan is void and the credit counseling service shall return to the consumer all fees received from or on behalf of the consumer.

(5) Credit counseling services are prohibited from using hold harmless clauses, confessions of judgment, and waivers of the right to jury trials in debt management plans.

(6) The department may promulgate rules as necessary to implement the provisions of [sections 1 through 7], including setting fees."

10. Page 5, following line 7.

Insert: "NEW SECTION. Section 8. **Repealer.** Sections 31-3-201, 31-3-202, and 31-3-203, MCA, are repealed."

Renumber: subsequent section

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on February 17, 2005 at 3:30 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. John E. Witt, Vice Chairman (R)
Rep. Tim Callahan (D)
Rep. Bill E. Glaser (R)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)
Rep. Ralph L. Lenhart (D)
Rep. Walter McNutt (R)
Rep. Penny Morgan (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Janna Taylor (R)
Rep. Jack Wells (R)

Members Excused: Rep. Eve Franklin (D)
Rep. Jon C. Sesso (D)

Members Absent: Rep. Carol C. Juneau, Vice Chairman (D)
Rep. John Sinrud (R)

Staff Present: Marcy McLean, Committee Secretary
Jon Moe, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 288, 2/11/2005; HB 326,
2/11/2005; HB 31, 2/11/2005; HB
140, 2/11/2005; HB 148, 2/11/2005

REP. JUNEAU asked the sponsor if he would consider adding gambling addiction to this bill. **REP. ROBERTS** said that he would not because it is a different type of addiction, and expands beyond the intent of this bill.

{Tape: 2; Side: A; Approx. Time Counter: 13.5 - 32.6; Comments: End of Side A}

REP. JUNEAU asked how much is being spent in schools for drug and alcohol prevention education. She said that she is concerned about the gradual reduction in money provided for this type of education. **REP. ROBERTS** said that he did not have a specific number, but referred her to the bill where it states, "agencies to cooperate with Office of Substance Abuse Prevention and Treatment, shall provide budgetary program and grant information on a regular basis." He said that the commissioner will be able to gather this information for a more coordinated effort.

Closing by Sponsor:

REP. ROBERTS said that the office of the commissioner will be able to set his/her agenda with input from other departments. The intent is to have a program of prevention, intervention and treatment prior to prison.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.5}

HEARING ON HB 140

Opening Statement by Sponsor:

REP. JOHN PARKER, HD 23, Great Falls opened the hearing on **HB 140**, a bill to revise laws on consumer credit counseling. He said that the bill is designed to put some regulation on credit counseling companies, because a few of these companies are predatory.

Proponents' Testimony:

Cort Jensen, State Consumer Protection Attorney, said that the credit counseling industry requested to be regulated because of abuses by a few companies. The \$2,500 funding for this regulation will be paid for by a fee assessed to these companies.

Opponents' Testimony: None

Closing by Sponsor:

REP. PARKER said that he had nothing more to add.

{Tape: 2; Side: B; Approx. Time Counter: 4.5 - 8.6}

HEARING ON HB 148

Opening Statement by Sponsor:

REP. CAROL LAMBERT, HD 39, Baker opened the hearing on **HB 148**, a bill to provide for the actuarial funding for public employees', sheriffs', game wardens', and peace officers' retirement systems. She said that Montana's constitution requires that public retirement systems be properly funded on an actuarial basis. During the 2001 and 2002 downturn in the stock market, these funds were not adequately funded, because the portfolio of investments managed by the Board of Investments lost money. She said that at this point, the State is unable to actuarially fund these accounts in 30 years. Therefore, HB 148 requests permission to gradually increase the employer contributions. Once the funds are actuarially sound, these increases will terminate. She also stated that this requested funding is in Governor Schweitzer's budget.

Proponents' Testimony:

Mike Connor, Montana Public Employees Retirement System (PERS), handed out a packet of information detailing all of the public retirement plans for the State of Montana.

EXHIBIT(aph39a03)

EXHIBIT(aph39a04)

He said that the PERS Board has a funding policy that states:

"When long-term cash flow projections are that the amortization period of unfunded liabilities is projected to exceed 30 years for two consecutive evaluations and the Board cannot reasonably anticipate the amortization period would decline without increasing funded sources, it is the obligation of the Board to recommend to the Legislature that funding be increased."

This policy was adopted in 1995, and this is the first time that PERS has had to come to the Legislature and address funding issues with retirement plans. The 2004 audit opinion recommended that the PERS Board seek legislation for funding changes to ensure that these retirement systems are funded on an actuarially sound basis, as required by the Montana Constitution.

The definition of "actuarially sound," as stated in MCA 19-2-409, is "Contributions to each retirement plan must be sufficient to

HOUSE OF REPRESENTATIVES

Roll Call APPROPRIATIONS COMMITTEE

DATE 2/17/05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. ROSIE BUZZAS, CHAIR	✓		
REP. CAROL JUNEAU, VICE CHAIR		✓	
REP. JOHN WITT, VICE CHAIR	✓		
REP. TIM CALLAHAN	✓		
REP. EVE FRANKLIN			✓
REP. BILL GLASER	✓		
REP. RAY HAWK	✓		
REP. CYNTHIA HINER	✓		
REP. VERDELL JACKSON	✓		
REP. JOEY JAYNE	✓		
REP. CHRISTINE KAUFMANN	✓		✓
REP. RALPH LENHART	✓		
REP. WALT McNUTT	✓		
REP. JOHN MUSGROVE	✓		
REP. PENNY MORGAN	✓		
REP. RICK RIPLEY	✓		
REP. JOHN SESSO			✓
REP. JOHN SINRUD		✓	
REP. JANNA TAYLOR	✓		
REP. JACK WELLS	✓		

Montana House of Representatives
Visitors Register

APPROPRIATIONS COMMITTEE

Date 2-17-05

Bill No. HB-140 Sponsor(s) Rep J. Parker

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Carl Jensen	Consumer Services	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

/s/AppropVisitorReg.sample2003

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **VICE CHAIRMAN CAROL C. JUNEAU**, on March 23, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Tim Callahan (D)
Rep. Eve Franklin (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)
Rep. Ralph L. Lenhart (D)
Rep. Walter McNutt (R)
Rep. Penny Morgan (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Jon C. Sesso (D)
Rep. John Sinrud (R)
Rep. Janna Taylor (R)
Rep. Jack Wells (R)

Members Excused: Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. John E. Witt, Vice Chairman (R)

Members Absent: Rep. Bill E. Glaser (R)

Staff Present: Marcy McLean, Committee Secretary
Laura Dillon, Committee Secretary
Jon Moe, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 791, 3/21/2005
Executive Action: HB 695; HB 423; HB 140; HB 417; HB 521; JB 807; JB 439; HB 440; HB 375; HB 757; HB 99; HB 336; HB 740; HB 395; HB 687; HB 435; HB 640; HB 393; HB 482; HB 521; HB 667; HB 669; HB 336; HB 707; HB 614; HB 124; HB 535; HB 76; HB 757

HEARING ON HB 791**Opening Statement by Sponsor:**

REP. CAROL JUNEAU, HD 16, Browning, opened the hearing on **HB 791**, a bill to fund Indian Education for All. She explained that the bill includes an appropriation of \$7.5 million to fund Indian Education. REP. JUNEAU explained the funding sources for the proposed bill and how this would affect local schools. The bill has taken into account recommendations from the Supreme Court ruling on education, the School Renewal Commission and the Appropriations Subcommittee on Education.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 15.3. Comments: REP. WITT and REP. BUZZAS entered the hearing.}

EXHIBIT(aph64a01)

EXHIBIT(aph64a02)

EXHIBIT(aph64a03)

Proponents' Testimony:

Bud Williams, Office of Public Instruction (OPI), stated that HB 791 has the support of OPI. State Superintendent McCulloch feels that all students should leave the Montana education system with an understanding of our Native American heritage and culture. It is her belief that to fully implement Indian Education for All, some very critical groundwork must be met. Mr. Williams continued that additional funding in this bill will go a long way towards allowing schools the money they must have to successfully move Indian Education for All forward in Montana.

Jack Copps, Montana Quality Education Coalition, said that his experience as principal of Poplar High School has helped him to recognize the potential of Native American Students. He feels this bill will ensure that the State will hold the kind of expectations to that will lead children to reach their full potential.

{Tape: 1; Side: A; Approx. Time Counter: 15.3 - 22}

Motion/Vote: REP. JAYNE moved that HB 695 DO PASS AS AMENDED.

Motion carried 16-4 by roll call vote with REP. HAWK, REP.

JACKSON, REP. MORGAN, and REP. WELLS voting no.

{Tape: 2; Side: B; Approx. Time Counter: 13.7 - 33; Comments: End of Tape 2, Side B.}

(REP. WITT exited the meeting.)

EXECUTIVE ACTION ON HB 423

Motion/Vote: REP. TAYLOR moved to RECONSIDER THE MOTION on HB 423. Motion failed 10-10 by roll call vote with REP. GLASER, REP. HAWK, REP. JACKSON, REP. MCNUTT, REP. RIPLEY, REP. SESSO, REP. TAYLOR, REP. WELLS, and REP. WITT voting aye. REP. WITT voted by proxy.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 4.3}

EXECUTIVE ACTION ON HB 140

Motion: REP. FRANKLIN moved that HB 140 DO PASS.

Motion: REP. FRANKLIN moved that HB 140 BE AMENDED.

EXHIBIT(aph64a05)

Discussion:

Mr. Moe explained that the amendment adds changes language to indicate that the credit counseling service has a responsibility to provide the consumer with a debt management plan and not promote the interests of any third party that is in conflict with the interests of the consumer.

(REP. BUZZAS exited the meeting.)

REP. FRANKLIN added that the bill will address inappropriate alliances between lenders and credit counseling services.

(REP. WITT entered the meeting.)

Vote: Motion carried unanimously by voice vote.

Motion/Vote: REP. FRANKLIN moved that HB 140 DO PASS AS AMENDED.

Motion carried 18-2 by voice vote with REP. HAWK and REP. WELLS voting no.

EXECUTIVE ACTION ON HB 417

Motion/Vote: REP. SINRUD moved that HB 417 BE TABLED. Motion failed 10-10 by roll call vote with REP. GLASER, REP. HAWK, REP. JACKSON, REP. MCNUTT, REP. RIPLEY, REP. SINRUD, REP. TAYLOR, REP. WELLS, and REP. WITT voting aye. REP. BUZZAS voted by proxy.

Amendments to House Bill No. 140
3rd Reading Copy

Requested by Representative John Parker

For the House Appropriations Committee

Prepared by Bartley Campbell
March 21, 2005 (3:16pm)

1. Page 4, line 13 through line 14.

Strike: "FIDUCIARY" through "PLAN" on line 14

Insert: "duty to advocate the interests of the consumer who is a party to the debt management plan and not promote the interests of any third party that is in conflict with the primary obligation of advocating the interests of the consumer"

- END -

HOUSE OF REPRESENTATIVES

Roll Call APPROPRIATIONS COMMITTEE

DATE 3/23/05 8:00 a.m.

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. ROSIE BUZZAS, CHAIR			✓
REP. CAROL JUNEAU, VICE CHAIR	✓		
REP. JOHN WITT, VICE CHAIR			✓
REP. TIM CALLAHAN	✓		
REP. EVE FRANKLIN	✓		
REP. BILL GLASER		✓	
REP. RAY HAWK	✓		
REP. CYNTHIA HINER	✓		
REP. VERDELL JACKSON	✓		
REP. JOEY JAYNE	✓		
REP. CHRISTINE KAUFMANN	✓		
REP. RALPH LENHART	✓		
REP. WALT McNUTT	✓		
REP. JOHN MUSGROVE	✓		
REP. PENNY MORGAN	✓		
REP. RICK RIPLEY	✓		
REP. JOHN SESSO	✓		
REP. JOHN SINRUD	✓		
REP. JANNA TAYLOR	✓		
REP. JACK WELLS	✓		

HOUSE OF REPRESENTATIVES

Roll Call APPROPRIATIONS COMMITTEE

DATE 3/23/05 3:40 p.m.

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. ROSIE BUZZAS, CHAIR	✓		
REP. CAROL JUNEAU, VICE CHAIR		✓	✓
REP. JOHN WITT, VICE CHAIR			✓
REP. TIM CALLAHAN	✓		
REP. EVE FRANKLIN	✓		
REP. BILL GLASER	✓		
REP. RAY HAWK	✓		
REP. CYNTHIA HINER	✓		
REP. VERDELL JACKSON	✓		
REP. JOEY JAYNE	✓		
REP. CHRISTINE KAUFMANN	✓		
REP. RALPH LENHART	✓		
REP. WALT McNUTT	✓		
REP. JOHN MUSGROVE			✓
REP. PENNY MORGAN	✓		
REP. RICK RIPLEY	✓		
REP. JOHN SESSO			✓
REP. JOHN SINRUD	✓		
REP. JANNA TAYLOR	✓		
REP. JACK WELLS	✓		

s:/AppropRollCall2005



HOUSE STANDING COMMITTEE REPORT

March 23, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on Appropriations recommend that **House Bill 140** (first reading copy -- white) do pass as amended.

Signed: *Rosalie Buzzas*
Representative Rosalie (Rosie) Buzzas, Chair

And, that such amendments read:

1. Page 4, line 13 through line 14.

Strike: "FIDUCIARY" through "PLAN" on line 14

Insert: "duty to advocate the interests of the consumer who is a party to the debt management plan and not promote the interests of any third party that is in conflict with the primary obligation of advocating the interests of the consumer"

- END -

Committee Vote:

Yes 18, No 2.

641408SC.hkh

3/23/05
plan

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on April 1, 2005
at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Carolyn Squires (D)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 772, 3/29/2005; HB 140,
3/29/2005; HB 687, 3/29/2005
Executive Action: HB 772

00:00:00

HEARING ON HB 772

Opening Statement by Sponsor:

REP. TOM FACEY (D), HD 95, opened the hearing on HB 772, Pay travel expenses for catastrophically injured workers.

Proponents' Testimony:

00:03:18 Mr. Jerry Driscoll, Montana AFL-CIO
00:04:56 Mr. Bob Worthington, Montana Municipal Insurance
Authority
00:05:37 Mr. Pat Clinch, Montana State Council of
Professional Firefighters, also on behalf of Mr.
Don Judge, Teamsters
00:06:23 Mr. Jed Fitch, Montana Trial Lawyers Association

Opponents' Testimony: None.

Informational Testimony:

00:07:06 Mr. Jerry Keck, Department of Labor and Industry
00:07:25 Ms. Nancy Butler, Montana State Fund

00:08:18

Questions from Committee Members and Responses:

00:13:36

Closing by Sponsor:

00:15:14

HEARING ON HB 140

Opening Statement by Sponsor:

REP. JOHN PARKER (D), HD 23, opened the hearing on HB 140, Revise laws on consumer credit counseling.

Proponents' Testimony:

00:18:07 Ms. Deb Kottel, Consumer Credit Counseling
Services of Montana

EXHIBIT(bus69a01)

00:26:01 Mr. Tom Jacobson, Executive Director, Consumer
Credit Counseling Services of Montana

EXHIBIT (bus69a02)

EXHIBIT (bus69a03)

00:34:16 Mr. Al Ward, AARP

EXHIBIT (bus69a04)

00:36:36 Mr. Jed Fitch, Montana Trial Lawyers Association

00:37:57 Mr. Tom Boland, Attorney

00:41:48 Mr. J.D. Lynch, American Financial Institute

00:43:18 Ms. Mona Jamison, Wells Fargo

00:44:57 Ms. Pam Bucy, Assistant Attorney General

EXHIBIT (bus69a05)

Opponents' Testimony: None.

Informational Testimony: None.

00:46:26

Questions from Committee Members and Responses:

EXHIBIT (bus69a06)

01:14:21

Closing by Sponsor:

01:17:43 Break.

01:24:57 Resume.

01:25:16

HEARING ON HB 687

Opening Statement by Sponsor:

REP. SCOTT MENDENHALL (R), HD 77, opened the hearing on HB 687,
Revise laws governing tobacco.

EXHIBIT (bus69a07)

Proponents' Testimony:

01:29:00 Mr. Neil Peterson, Department of Revenue

EXHIBIT (bus69a08)

EXHIBIT (bus69a09)

Montana State Legislature

Exhibit Number: 1

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1

**MONTANA LEGISLATION FOR
CONSUMER PROTECTION
CREDIT COUNSELING AGENCIES**

BUSINESS & LABOR

EXHIBIT NO. 17
DATE 9/1/05
BILL NO. HB 140

Purpose

The purpose of this legislation is to protect Montana consumers who contract for services with debt management service providers. The legislation is a consumer protection statute.

The Bill is entitled "An act creating a Montana Consumer Debt Management Services Act; requiring licensure of credit counseling services; establishing requirements for debt management plans entered into between consumers and credit counseling services; designating prohibited practices for credit counseling services; and providing remedies and penalties"

The Problem

According to the US Federal Reserve, consumer debt now stands at \$2 trillion, of which \$750 billion is revolving (credit card) debt. Households with credit cards carry an average debt load of \$9,200, compared to \$4,300 in 1994. Last year, 1.6 million people filed for bankruptcy, compared to 1.5 million in 2002. These record-high debt levels are resulting in financial disasters for many individuals and families.

Individuals increasingly are turning to credit counseling agencies for financial advice and debt reduction services to help manage their debt. According to a 2002 report released by the National Consumer Law Center and Consumer Federation of America, (*Credit Counseling in Crisis*) nearly nine million people sought the help of credit counseling organizations during the previous year, and at least one million consumers consolidated their debts through credit counseling organizations.

Unfortunately, as more consumers seek financial advice, more are falling prey to aggressive marketing tactics by some unscrupulous and predatory credit counseling organizations. Consumer complaints about deceptive debt counseling practices are on the rise, prompting the Federal Trade Commission and Internal Revenue Service to issue an alert in October 2003, to caution consumers about abusive credit counseling services. Some state attorney generals have also filed actions against several new credit counseling providers.

The National Foundation for Credit Counseling, Inc. ® (NFCC) the nations largest and longest-serving nonprofit credit counseling organizations also advises consumers to use caution when seeking credit counseling services.

Industry Issues & Consumer Impacts

Over the past decade, new organizations have entered the credit counseling field. The estimated number of new credit counseling organizations has increased from approximately 200 in 1990 to over 1,000 last year. Many of the new entrants operate as telemarketing phone centers with centralized, single-focused, debt prorating services, often disguised as nonprofit credit counseling services. Instead of a holistic approach to counseling, some have become experts at skimming off the most profitable aspect of counseling services; debt repayment plans.

Their claims: "we'll fix your debt problems in just minutes," with a 15-minute, one size fits all, quick-fix counseling session touted as a cure for the consumer's ailing fiscal health. Through sometimes misleading and aggressive advertising and marketing tactics, many consumers are lured into a debt repayment plan or consolidation loan, loaded with high fees, when in some cases the consumer could have solved their own debt situation after receiving budget counseling advice.

Some of these agencies have abandoned true financial education and counseling altogether. Others have changed the quality of service for the worse and are driven by quantity, versus quality. The more people they sign up on debt repayment plans, the more money they rake in from excessive consumer fees and creditor contributions to fatten their bottom lines. And since they don't have local offices, consumers who seek customer service to resolve account issues are at the mercy of telemarketers and telephone recordings. As a result, some consumers can't get through to a person to find out why their payments have not been received by their creditors.

This is becoming common practice with many of the new national providers that only offer phone services. Many of these agencies are not governed by local and independent Boards of Directors who ensure that their practices are fair, consumer focused and untainted by improper relationships and shell transactions that enrich their executives and for-profit companies.

Many of the new debt service providers operate by their own rules and don't see the need to practice high standards that protect consumers. The unscrupulous industry players have declared open season on consumers. The assaults include multi-million dollar advertising campaigns that bombard consumers 24-hours-a-day, excessively high fees that add to a consumer's burden and affect payments to creditors, poor or no customer service and no accountability for the agencies' operations and services.

Many of the new players have contributed to marketplace confusion and some have even attempted to trade on protected trademarks. This behavior is causing unconscionable harm to uninformed consumers who ultimately become the victims of these new players' deceptive and irresponsible practices. After receiving poor service from some of the new entrants, many unsuspecting consumers find themselves digging out from under even worse financial conditions and others are faced with filing for bankruptcy.

The abuses and excesses of these alleged nonprofit agencies have resulted in the counseling industry's own figures like the Enron's, WorldCom's and Tyco's of the for-profit sector, which are now turning this industry on its head. Their deceptive practices injure consumers, and reputable credit counseling agencies that provide excellent services and that are true to their nonprofit 501 (c) (3) designations.

It appears that some of these groups have exceeded the original mission and intent of nonprofit credit counseling organizations. Growing consumer complaints have also triggered government lawsuits against several organizations, legislation in 17 states, agency reviews and investigations by the IRS and FTC and hearings by US House Ways & Means Subcommittee on Oversight and the US Senate Permanent Subcommittee on Investigations. The IRS is investigating 50 agencies to review their compliance with IRS requirements for tax exempt credit counseling agencies. The IRS spells out specific guidelines for services and makes clear that no part of a credit counseling agency's net earnings may inure to the benefit of any individual or insider, such as an officer or director. Credit counseling agencies also cannot operate for private purposes.

The FTC is also examining industry practices to ensure agencies are in compliance with the FTC Act that prohibits unfair and deceptive acts or practices, specifically involving allegations of misrepresentations about fees or voluntary contributions; promising results that cannot be delivered; abuse of non-profit status; false advertising regarding credit counseling services; failure to pay creditors in a timely manner or at all; failure to abide by telemarketing laws and failure to provide Gramm-Leach-Bliley ("GLB") Privacy and Safeguards.

During the November 20, 2003, House Ways and Means Subcommittee on Oversight hearing on credit counseling abuses, Indiana Congresswoman Julie Carson stated, "It is not just consumers who are hurt by the bad apples; legitimate consumer credit counselors, who are trying to save families and save lives, also bear the brunt in terms of business lost and ruined reputation. This is why I introduced H.R. 3331, the Debt Counseling, Debt Settlement, and Debt Consolidation Improvements Act, a bill to provide a regulatory framework to the debt management industry. As evidenced by the recent actions of the I.R.S. and the F.T.C., the bill couldn't be timelier."

The passage of *H.R. 975, Bankruptcy Abuse Prevention and Consumer Protection Act of 2003*, *could place more consumers in harm's way*. This bill includes a provision that requires individuals to seek credit counseling services before filing for bankruptcy and thereby creates a pool of thousands and potentially millions of new candidates for credit counseling and debt services agencies. Without appropriate guidelines and standards for credit counseling, H.R. 975 could place consumers in harm's way by steering them to services that increase their debt and push them further into financial crisis, instead of helping them consider all of their financial options for overcoming debt.

The lack of uniform credit counseling standards and lack of federal and state industry regulations make federal and state legislative and regulatory actions vitally important in helping to bring agency operating controls and stronger consumer protections to the credit counseling service sector.

Fast Facts

- Consumer debt climbed to \$2,001,830,670,000 by the end of 2003. This is a 5.21% increase from the previous year. This figure includes all consumer debt with the exception of mortgages.
- The amount of consumer debt per household averaged \$18,707 in the United States.
- Of the total US consumer debt, approximately \$735,000,000,000 is from the use of credit cards. In Montana, this equates to a staggering \$2,463,574,748.
- As only 40% of Americans pay their credit card debt in full each month, the 60% who make payments carry an average balance of \$12,000. With the current national average rate for interest on credit cards at 13%, this would equate to approximately \$335,712,312 sent outside of the state each year by Montanans in interest payments alone.
- Interest rates for high-risk accounts rose to 29.9% in 2001 further strapping those who can least afford to pay. Furthermore, based on minimum payments, it would take as long as 42 years to pay off!

- The Federal Reserve Board estimates that the average household debt service ratio (an estimate of the ratio of all debt payments to disposable income) was 13.14% in the 3rd quarter of 2003. The total financial obligations ratio (a broader measure that includes automobile lease payments, rental payments, home owners insurance, and property tax payments) was an average of 18.32% during the same time in 2003. For homeowners this ratio was 13.91% and for renters this was **31.43%**.
- In 2001, 7 percent of families reported at least one debt payment was overdue. This percentage was higher with low to moderate income families and those under 35 years old.
- According to the Federal Reserve Board, charge off rates by American banks in the fourth quarter of 2003 was 5.89%.
- Delinquency rates for American banks in the fourth quarter of 2003 was 4.49%
- Credit card companies mailed over 5 billion offers to US households in 2001.
- According to Nellie Mae, the average college student owes \$3,262 in credit card debt and \$17,140 in student loans after they graduate totaling \$20,402.
- 84% of college students have at least one credit card an increase of 24% since 1998.

According to a report Retiring in the Red by Demos, a nonprofit organization dedicated to furthering issues regarding democracy reform, economic development, and America's long-range challenges:

- Americas Seniors over the age of 65 increased their credit card debt 89% between 1992 and 2001.
- Seniors between 65 and 69 years old, presumably the most recently retired, increased credit card debt 217% to an average of \$5,844.
- Among seniors with incomes under \$50,000 (70% of all seniors), about *one in five* families with credit card debt is in hardship – spending over 40% of their income on debt payments, including mortgage debt.
- Transitioners (people ages 55 to 64) experienced a 47% increase in credit card debt between 1992 and 2001, to an average of \$4,041.
- Credit card debt of low to moderate transitioner families without health insurance increased 169% as opposed to 37% for similar families with health insurance.

Solution

Enact comprehensive legislation to address credit counseling abuses that have occurred at the state level.

Summary of Proposed Legislation

“An act creating a Montana Consumer Debt Management Services Act; requiring licensure of credit counseling services; establishing requirements for debt management plans entered into between consumers and credit counseling services; designating prohibited practices for credit counseling services; and providing remedies and penalties”

Proposed amendments to HB 140 submitted by Consumer Credit Counseling Service of Montana, Inc.

AN ACT CREATING A MONTANA CONSUMER DEBT MANAGEMENT SERVICES ACT; REQUIRING LICENSURE OF CREDIT COUNSELING SERVICES; ESTABLISHING REQUIREMENTS FOR DEBT MANAGEMENT PLANS ENTERED INTO BETWEEN CONSUMERS AND CREDIT COUNSELING SERVICES; PROVIDING THE DEPARTMENT OF ADMINISTRATION WITH RULEMAKING AUTHORITY; PROVIDING REMEDIES AND PENALTIES; REPEALING CERTAIN DEBT ADJUSTMENT LAWS; AND REPEALING SECTIONS 31-3-201, 31-3-202, AND 31-3-203, MCA.

Section 4 Subsection 2 (c)

Replace "a majority" with no more than 20%

Add "family member" to list of persons with a conflict of interest

Section 4 Subsection 2

Add (f) substantial efforts are made to provide community based financial education as determined by the department to persons in the areas that they serve.

Section 5

Add (7) A credit counseling service may not place a person on a debt management plan without first providing individual financial counseling and budget education.

Section 6 Subsection 1

Add (i) pay or receive compensation for referring a person for other services

Add (k) refuse service for a person's inability to pay fees

Add

Section 4 Subsection 2

(3) That it is a non profit exempt from taxation under 501(c)(3) of The Internal Revenue Service Code, 26 USC. 501(c)(3).

3

EXHIBIT NO. 3
DATE 4/1/08
BILL NO. HB 140 as HB 140

Senate testimony in support of proposed amendments to HB 140 as submitted by Consumer Credit Counseling Service of Montana, Inc

After further review of the bill, Consumer Credit Counseling Service of Montana, Inc is concerned that it would open credit counseling to for-profit companies and propose tightening the language to require those entities to be non-profit. We are also concerned that striking the requirement for credit counseling organizations to have a physical location in the state will undermine the need for community based services.

Thirty-six years ago when Consumer Credit Counseling Service of Montana began delivering services to consumers, the agency's primary focus was on delivering financial education and counseling to Montana consumers. We provided literature and traveled across the state to deliver financial education classes to anyone who requested us at no charge. We provided individual counseling and education to low and moderate income people for no charge. In the course of counseling, if appropriate, we would negotiate with creditors to help our clients get caught up on their payments and avoid bankruptcy. Debt management activities were a relatively small part of our overall activities, but were an integral part of our services. We were able to provide these services to consumers for free because of the contributions we received from local businesses and creditors.

Nearly every credit counseling agency in the country was a member of the National Foundation for Credit Counseling. The NFCC maintained quality services through strict membership requirements and accreditation. In the early 1990's a lawsuit was brought against the NFCC citing that they restricted fair trade by limiting membership geographically. The NFCC lost, and an age of unregulated credit counseling was born. Though they were able to obtain 501(c)(3) nonprofit status, new credit counseling agencies such as Ameridebt, Profina, Credit Counselors of America (now Take Charge America), and Cambridge focused on signing as many people as possible to a debt management plan to collect outlandish fees from clients and contributions from creditors. They embarked on massive national marketing campaigns and used huge call centers with telemarketing tactics to sign callers to DMP plans that they did not need. These practices were described in great detail at the US Senate Permanent Subcommittee in Investigations hearings and the subsequent report *Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling*.

These new companies used their non-profit status to avoid taxes and restrictive regulations. They still operated like a for-profit with huge salaries for their executives, paid board members that were made up of friends and family, and no education or contributions back to communities. Debt management plans were a commodity that were bought and sold to other for-profit back office operations.

These new companies did not educate, counsel, or work with communities to get at the root of the problem.

Our concern that credit counseling be opened to for-profit companies is two-fold. First, debt management companies will emerge that will prey on consumers in need. They will place people on a debt management plan whether or not they actually need to be on one and will have no incentive to counsel the consumer or educate the community on financial health. This pattern has already been established by the over 800 companies that are currently out there disguised as non-profits. Debt management plans will become a thing to sell people and without providing education or honest counseling, they can keep their overhead low and profits high. With our commitment to education and higher standards, we would be at a definite disadvantage to compete. In the long-run we would lose clients and contribution revenue.

Second, Congress is well aware of the problems in the credit counseling industry. Staff of the Congressional Joint Committee on Taxation released a report outlining problems with nonprofits in general and specifically about credit counseling. It is very likely there will be sweeping changes to 501(c)(3) regulations and credit counseling. By not requiring credit counseling to be a nonprofit, Montana will create a loophole for unscrupulous companies who do not want to meet the new federal requirements. Montana laws should be prepared for these changes and crafted with these changes in mind.

Though we understand and appreciate the rationale for striking the physical location requirement, we are concerned that credit counselors operating from outside Montana will not meet the financial education needs of Montana communities. Currently, only two credit counseling agencies operate in the state, but consumers are inundated with out of state ads on television, radio, the Yellow Pages, and Internet. None of these out of state companies provide any other services to the consumers in the state besides placing them on debt management plans. We believe that credit counseling is more than debt management plans and these organizations should deliver education and counseling to meet community financial education needs. Otherwise, credit counseling only addresses a symptom of a much larger disease. The mission of credit counseling and education is to provide consumers with education and counseling to help them become and remain financially responsible. Placing people on a DMP without giving them the ongoing support and education will only set them up to fail again. We are also concerned that low-income, our youth, and our elderly can receive the education and services they need. Most of these do not qualify for a DMP and therefore would go without help if credit counselors were not held accountable to them.

We propose the following amendments to HB 140 to address these concerns and make this bill even stronger than it already is ensuring the protection of Montana consumers against the predatory practices of corrupt credit counseling agencies.



4

BUSINESS & LABOR
EXHIBIT NO. 4
DATE 4/1/05
BILL NO. HB 140

March 31, 2005

Senator Vicki Cocchiarella
Senate Committee on Business and Labor
Room 422 State Capitol Building
Helena MT 59601

Support of HB 140: AN ACT CREATING A MONTANA CONSUMER DEBT MANAGEMENT SERVICES ACT

Madam Chair and members of the committee, my name is Alex Ward, Associate State Director for AARP Montana. As a matter of background I was a law enforcement officer for 25 years and served as a Crime Prevention Detective for 17 years.

AARP is a non-profit, non-partisan membership organization with more than 143,000 members in Montana. A recent AARP Montana Member Survey (published in January 2005) indicated that a majority of those surveyed thought that consumer protection against business fraud should be viewed as Montana's top legislative priority.

Recent studies have shown that consumer debt payments increased to 19.3 percent of disposable income in 2002 – the highest in more than three decades. As a result, there was a record high of almost 1.5 million personal bankruptcy filings in 2002. According to a 2003 survey of consumer finances, the average credit card balances of households of those 65 years and older increased 149 percent from \$1,626 in 1989 to \$4,041 in 2001.

According to FTC Chairman Thomas Leary in testimony before the Congress on March 24, 2004:

“... [T]he credit counseling industry has experienced dramatic growth, attributable in large part to ballooning consumer debt and the resulting demand for credit counseling to prevent default on that debt.”

“Whereas it was once composed mainly of small, local credit counselors, the last decade has seen the rise of large, high-tech organizations that aggressively market their services to consumers via telemarketing, broadcast and print advertising, and the internet. These organizations, many of which claim non-profit status, represent a new breed in this industry. Many appear to offer little or no individualized credit counseling, but rather urge all of their clients to enroll in a Debt Management Plan without consideration of their particular financial situations.”

"The Commission is concerned about deceptive and other illegal practices in which some Credit Counseling Agencies (CCA) may be engaging. Our greatest concern is deception by CCA's about the nature and costs of the services they offer to consumers."

The unfortunate reality is that consumers, who thought they were taking the right steps to get out of debt and avoid bankruptcy, end up with far higher amounts of debt and in worse shape with their creditors than before dealing with these organizations. The people who are being hurt by companies who are marketing a product and not providing counseling are in desperate financial conditions. It is important that we have measures in place to make sure people who are trying to repair their past credit mistakes are not punished from bad business practices.

AARP Montana urges you to vote favorably for this bill to better protect consumers from bad practices of fraudulent consumer counseling services. We strongly support the sponsor's amendments that are now included in the bill and were recommended by our national office for the purpose of strengthening this all important piece of consumer protection legislation.

BUSINESS & LABOR

EXHIBIT NO. 5

DATE 4/1/05

BILL NO. HB140

Amendments to House Bill No. 140
3rd Reading Copy

Requested by Representative John Parker

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Greg Petesch
April 1, 2005 (9:13am)

1. Title, line 9.

Following: "LAWS:"

Insert: "AMENDING SECTION 5, CHAPTER 125, LAWS OF 2005;"

2. Page 6, line 20.

Insert: "Section 8. Section 5, Chapter 125, Laws of 2005, is amended to read:

Section 5. Retroactive applicability Applicability. [This act] applies retroactively, within the meaning of 1-2-109, to loans subject to [this act] made on or after October 1, 1985, the effective date of Chapter 406, Laws of 1985 to causes of action that arise on or after [the effective date of this act] but does not apply to lawsuits filed prior to [the effective date of this act]."

"NEW SECTION. Section 9. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Renumber: subsequent sections

- END -

Montana State Legislature

Exhibit Number: 6

The following exhibit is a booklet that exceeds the 5-page limit therefore it cannot be scanned. The booklets' cover has been scanned to help you when requesting information. The exhibit is on file at the Montana Historical Society and can be viewed there.

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United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Governmental Affairs

Norm Coleman, Chairman

Carl Levin, Ranking Minority Member

BUSINESS & LABOR

EXHIBIT NO. 6

DATE 4/1/05

BILL NO. HB 140

**PROFITEERING IN A NON-PROFIT INDUSTRY:
ABUSIVE PRACTICES IN CREDIT COUNSELING**

REPORT

PREPARED BY THE

**MAJORITY & MINORITY STAFFS
OF THE
PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS**



**RELEASED IN CONJUNCTION WITH THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS' HEARING
ON MARCH 24, 2004**

I. INTRODUCTION

Consumer debt has more than doubled in the past ten years.¹ The nation's credit card debt is currently \$735 billion -- an average of nearly \$7,000 per household.² Since 1996, more than one million consumers have filed for bankruptcy each year, with a record 1.66 million new filings in 2003.³ For the past several decades, consumers in debt regularly turned to the non-profit credit counseling industry for advice and financial education. Consumers who could not afford to make all of their payments often enrolled in a debt management program, which allowed them to consolidate their debts from several credit cards, reduce their monthly payments, and lower their interest rates.

Over the past several years, however, the credit counseling industry has undergone significant changes. Some new entrants have resulted in increasing consumer complaints about excessive fees, non-existent education, poor service, and generally being left in worse debt than when they initiated their debt management program. The Internal Revenue Service has instituted a new program for reviewing the applications of credit counseling agencies for non-profit status and has initiated audits of fifty credit counseling agencies. The Federal Trade Commission and the Attorneys General of Illinois, Maryland, Minnesota, Missouri, and Texas have joined multiple private class actions in suing one aggressive actor, AmeriDebt and its related for-profit entities in venues across the country. Clearly, something is wrong with the credit counseling industry.

With this in mind, the Subcommittee initiated an investigation to determine the state of the credit counseling industry and whether solutions are available to remedy the problems that it is facing. The Subcommittee's investigation has revealed that AmeriDebt is not the only potential "bad actor" in the industry. Indeed, many of AmeriDebt's practices represent a pattern of abuse among several new entrants in the credit counseling industry.

II. EXECUTIVE SUMMARY

Credit counseling agencies ("CCAs") traditionally relied upon contributions from creditors or small fees from consumers to cover operational costs. The new entrants, however, have developed a completely different business model, using a for-profit model designed so that their non-profit credit counseling agencies generate massive revenues for a for-profit affiliate for advertising, marketing, executive salaries, and any number of other activities other than actual credit counseling. The new model looks to the consumer to provide those revenues.

Many of the "new" non-profit and for-profit companies are organized and operated to generate profits from an otherwise non-profit industry. Evidence of the new entrants' intention to create profits is indicated in several ways by the new entrants, including (1) the manner in which the new entrant was organized, (2) the extent of control exercised by a for-profit entity

¹ Eileen Powell, *Consumer Debt More Than Doubles in Decade*, The Washington Times, January 6, 2004.

² *Id.*

³ The American Bankruptcy Institute, available at <http://www.abiworld.org>.

agency to defray their costs for counseling and initiating and maintaining the DMP. Such fees and contributions were small in comparison to the creditor concessions received by the consumer. Today, the fees charged by the NFCC remain minimal. The average initial fee to set up a DMP with an NFCC agency in 2002 was \$23.09 and the average monthly maintenance fee was \$14.00.⁵

Growth in consumer credit card debt in the 1990s brought many new and aggressive entrants into the credit counseling industry. Since 1994, 1,215 credit counseling agencies have applied to the IRS for tax exempt status under Section 501(c)(3).⁶ Over 810 of these applicants applied during 2000 through 2003.⁷ There are currently 872 active tax-exempt credit counseling agencies operating in the United States.⁸ Many of these new entrants were not centered around community-based, face-to-face counseling, but rather upon a nationwide, Internet and telephone-based model focused primarily, if not solely, upon DMP enrollment. Many of the new entrants are set up on a for-profit model. The for-profit model is designed to provide the maximum benefit to for-profit corporations, which enter into contracts with non-profit CCAs to siphon off cash from the CCA. A common method used by for-profit entities to collect revenue from the CCA is to set itself up as a "back-office processing company," which would contract to provide data entry and DMP payment processing for the CCA in exchange for processing and other fees. The Subcommittee found that these contracts are often executed by officers or directors of a CCA who have familial ties or close business relationships with the owners of the contracting for-profit entity. The Subcommittee also found that, in many instances, multiple non-profit CCAs would send processing fees to a single for-profit company, which reaped substantial profits.

B. Current Law Governing the Credit Counseling Industry

Because most states require corporations to be non-profit in order to perform credit counseling services, CCAs are almost exclusively organized as non-profits under 26 U.S.C. § 501(c)(3). A corporation may qualify for tax-exempt status under Section 501(c)(3) if it is organized and operated exclusively for certain aims, such as charitable, religious, scientific, or educational purposes.⁹ No part of the corporation's net earnings may inure to the benefit of any individual or any private shareholder in the corporation.¹⁰ The corporation may not be organized or operated for the benefit of any private interests, such as the interests of the creator, the creator's family, any shareholders of the corporation, or any persons controlled directly or indirectly by such private interests.¹¹ Organizations apply for tax-exempt status with the IRS.¹² IRS Exempt Organizations Determinations Agents review each application and grant or deny tax-exempt status.¹³ Once an organization is granted tax-exempt status, they must operate under

⁵ NFCC 2002 Member Activity Report, p. 30.

⁶ Letter dated 12/18/03 to the Subcommittee from IRS Commissioner Mark Everson, p. 2 ("Everson letter").

⁷ Everson letter, p. 2.

⁸ Everson letter, p. 2.

⁹ 26 U.S.C. § 501(c)(3).

¹⁰ *Id.*

¹¹ IRS Publication 557, Tax-Exempt Status for Your Organization (Rev. May 2003), p. 17.

¹² Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) (Rev. September 1998).

¹³ Everson letter, p. 6.

manner that an individual or other entity benefits to a substantial degree, then the CCA is deemed to be operating for a private purpose. That holds true even where the benefit conferred upon the private interest is reasonable and for fair market value.²⁷ Examples of private benefit include payments to outsiders for goods or services, "steering business to a for-profit company," and excessive compensation paid to employees (not officers or directors, which would be inurement).²⁸

Tax-exempt CCAs face harsh penalties from the IRS if they fail to confine their activities exclusively to educational and charitable purposes. If a CCA is held to have conferred private benefits or to have violated the prohibition on inurement, its tax-exempt status is subject to revocation. In lieu of having its exemption revoked, the IRS may instead choose to impose "intermediate sanctions" against the CCA. Intermediate sanctions may also be imposed upon certain individuals who are not employed by the CCA that have engaged in an "excess benefit transaction" with the CCA. An excess benefit transaction is any transaction where a CCA provides an economic benefit to a "disqualified person" that has a greater value than the value of goods or services that the CCA receives from the disqualified person.²⁹ Therefore, where an individual outside the CCA has substantial influence over the affairs of the CCA and engages in an excess benefit transaction with that CCA, the individual is subject to sanctions. The sanction imposed upon such an individual is an excise tax equal to 25% of the excess benefit.³⁰ Further, if the individual fails to correct the harm caused by the excess benefit transaction within the taxable period, a tax equal to 200% of the excess benefit will be assessed against the individual.³¹

In addition to the serious tax consequences that could be assessed against CCAs and their affiliated for-profit entities, consumer protection laws provide additional protection against improper conduct in the credit counseling industry. The Federal Trade Commission ("FTC") is charged with enforcing Section 5(a) of the FTC Act, which prohibits unfair and deceptive acts or practices in or affecting commerce.³² Although the FTC generally lacks jurisdiction to enforce consumer protection laws against bona fide non-profits, they may assert jurisdiction over a CCA if it demonstrates that the CCA is "organized to carry on business for its own profit or that of its members," where it is a "mere instrumentality" of a for-profit entity, or if it operates through a "common enterprise" with one or more for-profit entities.³³

The Subcommittee has uncovered alarming abuses by three CCAs and their affiliates, as described in the following section.

²⁷ est of Hawaii v. Commissioner, 71 T.C. 1067 (1979) ("Nor can we agree with petitioner that the critical inquiry is whether the payments made to International were reasonable or excessive. Regardless of whether the payments made by petitioner to International were excessive, International and EST, Inc., benefited substantially from the operation of petitioner."); Church by Mail v. Commissioner, 765 F. 2d 1387 (9th Cir. 1985).

²⁸ Private Benefit Under IRC 501(c)(3), p. 139.

²⁹ 26 U.S.C. § 4958(c)(1)(A). A "disqualified person" is someone who, at any time during the five years preceding an excess benefit transaction, was "in a position to exercise substantial influence over the affairs of the organization."

³⁰ 26 U.S.C. § 4958(a)(1).

³¹ 26 U.S.C. § 4958(b).

³² 15 U.S.C. § 45(a).

³³ 15 U.S.C. § 44; Sunshine Art Studios, Inc. v. FTC, 481 F.2d 1171 (1st Cir. 1973); Delaware Watch Co. v. FTC, 332 F.2d 745 (2d Cir. 1964).

eleven CCAs exceeds \$2.5 billion.³⁴

(1) Formation of the DebtWorks-Ballenger Conglomerate

The DebtWorks-Ballenger conglomerate is organized and directed primarily by Andris Pukke and his wife Pamela Pukke. Andris Pukke entered the credit counseling industry by organizing and operating a for-profit CCA in Gaithersburg, Maryland, called Consumer Debt Resources.³⁵ In 1996, after the State of Maryland ordered Consumer Debt Resources to cease operations because it was a for-profit company, it began to wind down its affairs. At that same time, however, Pamela Pukke was organizing another non-profit CCA -- AmeriDebt, Inc. Pamela Pukke acted as vice president, secretary, and director of the new CCA.³⁶ Although not listed as an officer or director, Mr. Pukke regularly held himself out to be the president of AmeriDebt.³⁷

After operating as a non-profit CCA for approximately three years, AmeriDebt decided to "spin off" its DMP processing function and turn it into a for-profit entity called DebtWorks, Inc., which was wholly owned and controlled by Mr. Pukke.³⁸ DebtWorks was incorporated on July 21, 1999, purchased the assets of AmeriDebt on September 1, 1999, and signed its first contract with AmeriDebt to provide DMP processing on the same day.³⁹ AmeriDebt simply moved its DMP enrollment employees to the building next door while the DMP processing function (DebtWorks) remained in AmeriDebt's original office space.⁴⁰ AmeriDebt then also opened "branch" DMP enrollment locations in New York and Florida. AmeriDebt was DebtWorks's sole client, but that was soon to change as AmeriDebt officers, directors, and employees fanned out to form multiple CCAs, each of which subsequently contracted with DebtWorks for DMP processing services.

Most or all of the eleven non-profit CCAs in the DebtWorks-Ballenger conglomerate were organized by insiders of AmeriDebt or by friends of Mr. Pukke, including: (1) Edward Catsos, the managing director of AmeriDebt's Florida office, organized DebtServe;⁴¹ (2) Edward's brother, James Catsos, who had served as AmeriDebt's secretary, formed Debicated Consumer Counseling with Mr. Pukke's brother, Eriks;⁴² (3) Andrew Smith, who served as interim president for AmeriDebt, formed Fairstream; (4) William Sergeant, an AmeriDebt counseling manager, formed Debtscape;⁴³ (5) Jeffrey Formulak and Richard Brennan,

³⁴ Letter from Ballenger to Subcommittee, dated 11/26/03, at Ex. A.

³⁵ Subcommittee interview of Ballenger representatives (03/12/04).

³⁶ Articles of Incorporation dated 12/23/96 (originally named Consumer Counseling Services, Inc.); AmeriDebt Form 1023 dated 03/19/97.

³⁷ Subcommittee interview of Ballenger representatives (03/12/04).

³⁸ Articles of Incorporation of DebtWorks, Inc., Bates DWS 001538-1541.

³⁹ Articles of Incorporation of DebtWorks, Inc., Bates DWS 001538-1541; Asset Purchase Agreement between AmeriDebt and DebtWorks dated 09/01/99, Bates DWS 001526-1535; Fulfillment Agreement between AmeriDebt and DebtWorks dated 09/01/99, Bates DWS *****. AmeriDebt has made a dubious assertion that a "disinterested board" at AmeriDebt chose DebtWorks to be AmeriDebt's DMP processor after reviewing several bids from other entities. Subcommittee interview of AmeriDebt representative (02/27/04).

⁴⁰ Subcommittee interview of AmeriDebt representative (02/27/04).

⁴¹ Subcommittee interview of AmeriDebt representative (02/27/04).

⁴² Subcommittee interview of AmeriDebt representative (02/27/04).

⁴³ Subcommittee interview of AmeriDebt representative (02/27/04); AmeriDebt 1998 Form 990, p. 7.

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

DATE 4/1/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN	X		
SEN. JOE TROPILA (D), VICE CHAIRMAN	X		
SEN. JOE BALLYEAT (R)	X		
SEN. DUANE GRIMES (R)	X		
SEN. DAVE LEWIS (R)	X		
SEN. GLENN ROUSH (D)	X		
SEN. FRANK SMITH (D)	X		
SEN. CAROLYN SQUIRES (D)			X
SEN. DONALD STEINBEISSER (R)	X		
SEN. BILL TASH (R)	X		
SEN. JON TESTER (D)			X
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

BUSINESS AND LABOR

DATE 4/11/05 BILLS BEING HEARD TODAY HB 687, HB 772
HB 140

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Deb Kottel	761-8721	Consumer Credit Council	HB 140	✓	
Shannon J. Auger	761-8721	" " "	HB 140	✓	
Tom Jacobson	761-8721	" " "	HB 140	✓	
Tom Indge		Teamsters	HB 772	✓	
Pat Clinch	421-6640	MSC PFF	HB 772	✓	
Nancy Butler	444-7725	MT State Fund	HB 772	✓	
ALWARD	457-4703	Consumer Credit Counseling	HB 140	✓	
Neil Peterson	444-1941	MT Dept of Revenue	HB 687	✓	
Bonnie Alexander	9-4133	C-Store Assoc.	HB 687	X	
Larry McGowan	3-1570	American Cancer Soc.	HB 687	X	
Christwecker	1380	Attorney General	HB 687	X	
Jack C. Fitch	443-3124	MT Trial Lawyers	HB 772/140	X	
Bob Northington	443-0907	MT Trial	HB 772	X	
Jerry Keck	444-1555	MT Dept. of Labor	HB 772	Info	
Joe Fitch	444-1555	A E S E	140		
Wells Fargo	442-5589	Wells Fargo	140		
Tom Jurek	444-2026	DOT	140	✓	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on April 1, 2005
at 5:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: HB 647, HB 732, HB 140, HB 687,
HB 630

Substitute Motion: SEN. ROUSH made a substitute motion that HB 732 BE AMENDED WITH HB073204.APM WHERE "CHAPTER 19" IS REMOVED FROM PARAGRAPH 11.

Mr. Brad Griffin, Montana Retail Association

SEN. COCCHIARELLA segregated Paragraphs 20 and 23 from HB073204.apm.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. ROUSH moved that HB 732 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. SEN. SQUIRES and SEN. TESTER voted aye by proxy.

00:30:09

EXECUTIVE ACTION ON HB 140

Motion: SEN. ROUSH moved that HB 140 BE CONCURRED IN.

Motion: SEN. ROUSH moved that HB 140 BE AMENDED WITH HB014001.AGP.

Discussion:

EXHIBIT(bus69b05)

Substitute Motion/Vote: SEN. ROUSH made a substitute motion that HB 140 BE AMENDED WITH HB014001.AGP AND BY ADDING AN IMMEDIATE EFFECTIVE DATE. Substitute motion carried unanimously by voice vote.

Motion: SEN. SMITH moved that HB 150 BE CONCURRED IN AS AMENDED.

Discussion:

Mr. Kevin Braun, Chief Legal Counsel, Department of Labor and Industry

Vote: Motion carried 10-1 by voice vote with SEN. BALYEAT voting no. SEN. SQUIRES and SEN. TESTER voted aye by proxy.

00:39:31

EXECUTIVE ACTION ON HB 687

Motion: SEN. STEINBEISSER moved that HB 687 BE CONCURRED IN.

BUSINESS & LABOR

EXHIBIT NO. 5

DATE 4/1/05

Amendments to House Bill No. 140 BILL NO. HB 140
3rd Reading Copy

Requested by Representative John Parker

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Greg Petesch
April 1, 2005 (12:13pm)

1. Title, line 9.

Following: "LAWS;"

Insert: "AMENDING SECTION 5, CHAPTER 125, LAWS OF 2005;"

2. Page 6, line 20.

Insert: "Section 8. Section 5, Chapter 125, Laws of 2005, is amended to read:

Section 5. Retroactive applicability -- applicability. (1)
Except as provided in subsection (2), [This this act] applies
retroactively, within the meaning of 1-2-109; to loans subject to
[this act] made on or after October 1, 1985, the effective date
of Chapter 406, Laws of 1985.

(2) [This act] does not apply to loans that are the subject
of a lawsuit filed prior to [the effective date of this act]."

"NEW SECTION. Section 9. {standard} Severability. If a
part of [this act] is invalid, all valid parts that are severable
from the invalid part remain in effect. If a part of [this act]
is invalid in one or more of its applications, the part remains
in effect in all valid applications that are severable from the
invalid applications.

Renumber: subsequent sections

- END -

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

DATE 4/1/05 5:00pm

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA, CHAIRWOMAN	X		
SEN. JOE BALLYEAT	X		
SEN. DUANE GRIMES	X		
SEN. DAVE LEWIS	X		
SEN. GLENN ROUSH	X		
SEN. FRANK SMITH	X		
SEN. CAROLYN SQUIRES			X
SEN. DONALD STEINBEISSER	X		
SEN. BILL TASH	X		
SEN. JON TESTER	X		
SEN. JOE TROPILA			X
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		



SENATE STANDING COMMITTEE REPORT

April 2, 2005

Page 1 of 2

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that House Bill 140 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

To be carried by Senator Vicki Cocchiarella

And, that such amendments read:

1. Title, page 1, line 9.

Following: "LAWS."

Strike: "AND"

Insert: "AMENDING SECTION 5, CHAPTER 125, LAWS OF 2005;"

2. Title, page 1, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 6, line 20.

Insert: "Section 8. Section 5, Chapter 125, Laws of 2005, is amended to read:

"Section 5. Retroactive applicability -- applicability. (1) Except as provided in subsection (2), [This this act] applies retroactively, within the meaning of 1-2-109, to loans subject to [this act] made on or after October 1, 1985, the effective date of Chapter 406, Laws of 1985.

(2) [This act] does not apply to loans that are the subject of a lawsuit filed prior to [the effective date of this act]."

"NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid

Committee Vote:

Yes 10, No 1.

701129SC.ssc

1/7

applications.""

Renumber: subsequent sections

4. Page 6.

Following: line 26

Insert: "NEW SECTION. Section 12. Effective date. [This act]
is effective on passage and approval."

- END -